

105TH CONGRESS
1ST SESSION

H. R. 2676

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1997

Mr. ARCHER (for himself, Mr. PORTMAN, and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Internal Revenue Service Restructuring and Reform Act
7 of 1997”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

7 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

Sec. 101. Internal Revenue Service Oversight Board.

Sec. 102. Commissioner of Internal Revenue; other officials.

Sec. 103. Other personnel.

Sec. 104. Prohibition on executive branch influence over taxpayer audits and
collection activity.

Subtitle B—Personnel Flexibilities

Sec. 111. Personnel flexibilities.

TITLE II—ELECTRONIC FILING

Sec. 201. Electronic filing of tax and information returns.

Sec. 202. Due date for certain information returns filed electronically.

Sec. 203. Paperless electronic filing.

Sec. 204. Return-free tax system.

Sec. 205. Access to account information.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

Sec. 300. Short title.

Subtitle A—Burden of Proof

Sec. 301. Burden of proof.

Subtitle B—Proceedings by Taxpayers

Sec. 311. Expansion of authority to award costs and certain fees.

Sec. 312. Civil damages for negligence in collection actions.

Sec. 313. Increase in size of cases permitted on small case calendar.

Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

Sec. 321. Spouse relieved in whole or in part of liability in certain cases.

Sec. 322. Suspension of statute of limitations on filing refund claims during periods of disability.

Subtitle D—Elimination of Interest Rate Differential on Overlapping Periods of Interest on Income Tax Overpayments and Underpayments

Sec. 331. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.

Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

Sec. 341. Privilege of confidentiality extended to taxpayer's dealings with non-attorneys authorized to practice before Internal Revenue Service.

Sec. 342. Expansion of authority to issue taxpayer assistance orders.

Sec. 343. Limitation on financial status audit techniques.

Sec. 344. Limitation on authority to require production of computer source code.

Sec. 345. Procedures relating to extensions of statute of limitations by agreement.

Sec. 346. Offers-in-compromise.

Sec. 347. Notice of deficiency to specify deadlines for filing Tax Court petition.

Sec. 348. Refund or credit of overpayments before final determination.

Sec. 349. Threat of audit prohibited to coerce Tip Reporting Alternative Commitment Agreements.

Subtitle F—Disclosures to Taxpayers

Sec. 351. Explanation of joint and several liability.

Sec. 352. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.

Sec. 353. Disclosure of criteria for examination selection.

Sec. 354. Disclosure of field service advice memoranda.

Sec. 355. Explanations of appeals and collection process.

Subtitle G—Low Income Taxpayer Clinics

Sec. 361. Low income taxpayer clinics.

Subtitle H—Other Matters

Sec. 371. Actions for refund with respect to certain estates which have elected the installment method of payment.

Sec. 372. Cataloging complaints.

Sec. 373. Archive of records of Internal Revenue Service.

Sec. 374. Payment of taxes.

Sec. 375. Clarification of authority of Secretary relating to the making of elections.

Subtitle I—Studies

Sec. 381. Penalty administration.

Sec. 382. Confidentiality of tax return information.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE
INTERNAL REVENUE SERVICE

Subtitle A—Oversight

- Sec. 401. Expansion of duties of the Joint Committee on Taxation.
 Sec. 402. Coordinated oversight reports.

Subtitle B—Budget

- Sec. 411. Funding for century date change.
 Sec. 412. Financial Management Advisory Group.

Subtitle C—Tax Law Complexity

- Sec. 421. Role of the Internal Revenue Service.
 Sec. 422. Tax complexity analysis.

TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED
 COMPENSATION

- Sec. 501. Clarification of deduction for deferred compensation.

1 **TITLE I—EXECUTIVE BRANCH**
 2 **GOVERNANCE AND SENIOR**
 3 **MANAGEMENT OF THE INTER-**
 4 **NAL REVENUE SERVICE**

5 **Subtitle A—Executive Branch Gov-**
 6 **ernance and Senior Manage-**
 7 **ment**

8 **SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT**
 9 **BOARD.**

10 (a) IN GENERAL.—Section 7802 (relating to the
 11 Commissioner of Internal Revenue) is amended to read as
 12 follows:

13 **“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT**
 14 **BOARD.**

15 “(a) ESTABLISHMENT.—There is established within
 16 the Department of the Treasury the Internal Revenue

1 Service Oversight Board (hereafter in this subchapter re-
2 ferred to as the ‘Oversight Board’).

3 “(b) MEMBERSHIP.—

4 “(1) COMPOSITION.—The Oversight Board
5 shall be composed of 11 members, as follows:

6 “(A) 8 members shall be individuals who
7 are not Federal officers or employees and who
8 are appointed by the President, by and with the
9 advice and consent of the Senate.

10 “(B) 1 member shall be the Secretary of
11 the Treasury or, if the Secretary so designates,
12 the Deputy Secretary of the Treasury.

13 “(C) 1 member shall be the Commissioner
14 of Internal Revenue.

15 “(D) 1 member shall be an individual who
16 is a representative of an organization that rep-
17 resents a substantial number of Internal Reve-
18 nue Service employees and who is appointed by
19 the President, by and with the advice and con-
20 sent of the Senate.

21 “(2) QUALIFICATIONS AND TERMS.—

22 “(A) QUALIFICATIONS.—Members of the
23 Oversight Board described in paragraph (1)(A)
24 shall be appointed solely on the basis of their

1 professional experience and expertise in 1 or
2 more of the following areas:

3 “(i) Management of large service or-
4 ganizations.

5 “(ii) Customer service.

6 “(iii) Federal tax laws, including tax
7 administration and compliance.

8 “(iv) Information technology.

9 “(v) Organization development.

10 “(vi) The needs and concerns of tax-
11 payers.

12 In the aggregate, the members of the Oversight
13 Board described in paragraph (1)(A) should
14 collectively bring to bear expertise in all of the
15 areas described in the preceding sentence.

16 “(B) TERMS.—Each member who is de-
17 scribed in paragraph (1)(A) or (D) shall be ap-
18 pointed for a term of 5 years, except that of the
19 members first appointed under paragraph
20 (1)(A)—

21 “(i) 1 member shall be appointed for
22 a term of 1 year,

23 “(ii) 1 member shall be appointed for
24 a term of 2 years,

1 “(iii) 2 members shall be appointed
2 for a term of 3 years, and

3 “(iv) 2 members shall be appointed
4 for a term of 4 years.

5 Such terms shall begin on the date of appoint-
6 ment.

7 “(C) REAPPOINTMENT.—An individual
8 who is described in paragraph (1)(A) may be
9 appointed to no more than two 5-year terms on
10 the Oversight Board.

11 “(D) VACANCY.—Any vacancy on the
12 Oversight Board shall be filled in the same
13 manner as the original appointment. Any mem-
14 ber appointed to fill a vacancy occurring before
15 the expiration of the term for which the mem-
16 ber’s predecessor was appointed shall be ap-
17 pointed for the remainder of that term.

18 “(E) SPECIAL GOVERNMENT EMPLOY-
19 EES.—During such periods as they are per-
20 forming services for the Oversight Board, mem-
21 bers who are not Federal officers or employees
22 shall be treated as special government employ-
23 ees (as defined in section 202 of title 18, Unit-
24 ed States Code).

1 “(4) QUORUM.—6 members of the Oversight
2 Board shall constitute a quorum. A majority of
3 members present and voting shall be required for the
4 Oversight Board to take action.

5 “(5) REMOVAL.—

6 “(A) IN GENERAL.—Any member of the
7 Oversight Board may be removed at the will of
8 the President.

9 “(B) SECRETARY AND COMMISSIONER.—
10 An individual described in subparagraph (B) or
11 (C) of paragraph (1) shall be removed upon ter-
12 mination of employment.

13 “(C) REPRESENTATIVE OF INTERNAL REV-
14 ENUE SERVICE EMPLOYEES.—The member de-
15 scribed in paragraph (1)(D) shall be removed
16 upon termination of employment, membership,
17 or other affiliation with the organization de-
18 scribed in such paragraph.

19 “(6) CLAIMS.—

20 “(A) IN GENERAL.—Members of the Over-
21 sight Board who are described in paragraph
22 (1)(A) or (D) shall have no personal liability
23 under Federal law with respect to any claim
24 arising out of or resulting from an act or omis-
25 sion by such member within the scope of service

1 as a member. The preceding sentence shall not
2 be construed to limit personal liability for criminal
3 acts or omissions, willful or malicious conduct,
4 acts or omissions for private gain, or any
5 other act or omission outside the scope of the
6 service of such member on the Oversight Board.

7 “(B) EFFECT ON OTHER LAW.—This paragraph
8 shall not be construed—

9 “(i) to affect any other immunities
10 and protections that may be available to
11 such member under applicable law with respect
12 to such transactions,

13 “(ii) to affect any other right or remedy
14 against the United States under applicable
15 law, or

16 “(iii) to limit or alter in any way the
17 immunities that are available under applicable
18 law for Federal officers and employees.
19

20 “(c) GENERAL RESPONSIBILITIES.—

21 “(1) IN GENERAL.—The Oversight Board shall
22 oversee the Internal Revenue Service in its administration,
23 management, conduct, direction, and supervision
24 of the execution and application of the inter-

1 nal revenue laws or related statutes and tax conven-
2 tions to which the United States is a party.

3 “(2) EXCEPTIONS.—The Oversight Board shall
4 have no responsibilities or authority with respect
5 to—

6 “(A) the development and formulation of
7 Federal tax policy relating to existing or pro-
8 posed internal revenue laws, related statutes,
9 and tax conventions,

10 “(B) law enforcement activities of the In-
11 ternal Revenue Service, including compliance
12 activities such as criminal investigations, exami-
13 nations, and collection activities, or

14 “(C) specific procurement activities of the
15 Internal Revenue Service.

16 “(3) RESTRICTION ON DISCLOSURE OF RETURN
17 INFORMATION TO OVERSIGHT BOARD MEMBERS.—
18 No return, return information, or taxpayer return
19 information (as defined in section 6103(b)) may be
20 disclosed to any member of the Oversight Board de-
21 scribed in subsection (b)(1)(A) or (D). Any request
22 for information not permitted to be disclosed under
23 the preceding sentence, and any contact relating to
24 a specific taxpayer, made by a member of the Over-
25 sight Board so described to an officer or employee

1 of the Internal Revenue Service shall be reported by
2 such officer or employee to the Secretary and the
3 Joint Committee on Taxation.

4 “(d) SPECIFIC RESPONSIBILITIES.—The Oversight
5 Board shall have the following specific responsibilities:

6 “(1) STRATEGIC PLANS.—To review and ap-
7 prove strategic plans of the Internal Revenue Serv-
8 ice, including the establishment of—

9 “(A) mission and objectives, and standards
10 of performance relative to either, and

11 “(B) annual and long-range strategic
12 plans.

13 “(2) OPERATIONAL PLANS.—To review the
14 operational functions of the Internal Revenue Serv-
15 ice, including—

16 “(A) plans for modernization of the tax
17 system,

18 “(B) plans for outsourcing or managed
19 competition, and

20 “(C) plans for training and education.

21 “(3) MANAGEMENT.—To—

22 “(A) recommend to the President can-
23 didates for appointment as the Commissioner of
24 Internal Revenue and recommend to the Presi-
25 dent the removal of the Commissioner,

1 “(B) review the Commissioner’s selection,
2 evaluation, and compensation of senior man-
3 agers, and

4 “(C) review and approve the Commis-
5 sioner’s plans for reorganization of the Internal
6 Revenue Service.

7 “(4) BUDGET.—To—

8 “(A) review and approve the budget re-
9 quest of the Internal Revenue Service prepared
10 by the Commissioner,

11 “(B) submit such budget request to the
12 Secretary of the Treasury, and

13 “(C) ensure that the budget request sup-
14 ports the annual and long-range strategic plans.

15 The Secretary shall submit the budget request referred to
16 in paragraph (4)(B) for any fiscal year to the President
17 who shall submit such request, without revision, to Con-
18 gress together with the President’s annual budget request
19 for the Internal Revenue Service for such fiscal year.

20 “(e) BOARD PERSONNEL MATTERS.—

21 “(1) COMPENSATION OF MEMBERS.—

22 “(A) IN GENERAL.—Each member of the
23 Oversight Board who is described in subsection
24 (b)(1)(A) shall be compensated at a rate of
25 \$30,000 per year. All other members of the

1 Oversight Board shall serve without compensa-
2 tion for such service.

3 “(B) CHAIRPERSON.—In lieu of the
4 amount specified in subparagraph (A), the
5 Chairperson of the Oversight Board shall be
6 compensated at a rate of \$50,000.

7 “(2) TRAVEL EXPENSES.—The members of the
8 Oversight Board shall be allowed travel expenses, in-
9 cluding per diem in lieu of subsistence, at rates au-
10 thorized for employees of agencies under subchapter
11 I of chapter 57 of title 5, United States Code, while
12 away from their homes or regular places of business
13 in the performance of services for the Oversight
14 Board.

15 “(3) STAFF.—At the request of the Chair-
16 person of the Oversight Board, the Commissioner
17 shall detail to the Oversight Board such personnel as
18 may be necessary to enable the Oversight Board to
19 perform its duties. Such detail shall be without
20 interruption or loss of civil service status or privi-
21 lege.

22 “(4) PROCUREMENT OF TEMPORARY AND
23 INTERMITTENT SERVICES.—The Chairperson of the
24 Oversight Board may procure temporary and inter-

1 mittent services under section 3109(b) of title 5,
2 United States Code.

3 “(f) ADMINISTRATIVE MATTERS.—

4 “(1) CHAIR.—The members of the Oversight
5 Board shall elect for a 2-year term a chairperson
6 from among the members appointed under sub-
7 section (b)(1)(A).

8 “(2) COMMITTEES.—The Oversight Board may
9 establish such committees as the Oversight Board
10 determines appropriate.

11 “(3) MEETINGS.—The Oversight Board shall
12 meet at least once each month and at such other
13 times as the Oversight Board determines appro-
14 priate.

15 “(4) REPORTS.—The Oversight Board shall
16 each year report to the President and the Congress
17 with respect to the conduct of its responsibilities
18 under this title.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 4946(c) (relating to definitions and
21 special rules for chapter 42) is amended—

22 (A) by striking “or” at the end of para-
23 graph (5),

24 (B) by striking the period at the end of
25 paragraph (6) and inserting “, or”, and

1 (C) by adding at the end the following new
 2 paragraph:

3 “(7) a member of the Internal Revenue Service
 4 Oversight Board.”.

5 (2) The table of sections for subchapter A of
 6 chapter 80 is amended by striking the item relating
 7 to section 7802 and inserting the following new
 8 item:

“Sec. 7802. Internal Revenue Service Oversight Board.”

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
 11 this section shall take effect on the date of the en-
 12 actment of this Act.

13 (2) NOMINATIONS TO INTERNAL REVENUE
 14 SERVICE OVERSIGHT BOARD.—The President shall
 15 submit nominations under section 7802 of the Inter-
 16 nal Revenue Code of 1986, as added by this section,
 17 to the Senate not later than 6 months after the date
 18 of the enactment of this Act.

19 **SEC. 102. COMMISSIONER OF INTERNAL REVENUE; OTHER**
 20 **OFFICIALS.**

21 (a) IN GENERAL.—Section 7803 (relating to other
 22 personnel) is amended to read as follows:

23 **“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE;**
 24 **OTHER OFFICIALS.**

25 “(a) COMMISSIONER OF INTERNAL REVENUE.—

1 “(1) APPOINTMENT.—

2 “(A) IN GENERAL.—There shall be in the
3 Department of the Treasury a Commissioner of
4 Internal Revenue who shall be appointed by the
5 President, by and with the advice and consent
6 of the Senate, to a 5-year term. The appoint-
7 ment shall be made without regard to political
8 affiliation or activity.

9 “(B) VACANCY.—Any individual appointed
10 to fill a vacancy in the position of Commis-
11 sioner occurring before the expiration of the
12 term for which such individual’s predecessor
13 was appointed shall be appointed only for the
14 remainder of that term.

15 “(C) REMOVAL.—The Commissioner may
16 be removed at the will of the President.

17 “(2) DUTIES.—The Commissioner shall have
18 such duties and powers as the Secretary may pre-
19 scribe, including the power to—

20 “(A) administer, manage, conduct, direct,
21 and supervise the execution and application of
22 the internal revenue laws or related statutes
23 and tax conventions to which the United States
24 is a party; and

1 “(B) recommend to the President a can-
2 didate for appointment as Chief Counsel for the
3 Internal Revenue Service when a vacancy oc-
4 curs, and recommend to the President the re-
5 moval of such Chief Counsel.

6 If the Secretary determines not to delegate a power
7 specified in subparagraph (A) or (B), such deter-
8 mination may not take effect until 30 days after the
9 Secretary notifies the Committees on Ways and
10 Means, Government Reform and Oversight, and Ap-
11 propriations of the House of Representatives, the
12 Committees on Finance, Government Operations,
13 and Appropriations of the Senate, and the Joint
14 Committee on Taxation.

15 “(3) CONSULTATION WITH BOARD.—The Com-
16 missioner shall consult with the Oversight Board on
17 all matters set forth in paragraphs (2) and (3)
18 (other than paragraph (3)(A)) of section 7802(d).

19 “(b) ASSISTANT COMMISSIONER FOR EMPLOYEE
20 PLANS AND EXEMPT ORGANIZATIONS.—There is estab-
21 lished within the Internal Revenue Service an office to be
22 known as the ‘Office of Employee Plans and Exempt Or-
23 ganizations’ to be under the supervision and direction of
24 an Assistant Commissioner of Internal Revenue. As head
25 of the Office, the Assistant Commissioner shall be respon-

1 sible for carrying out such functions as the Secretary may
 2 prescribe with respect to organizations exempt from tax
 3 under section 501(a) and with respect to plans to which
 4 part I of subchapter D of chapter 1 applies (and with re-
 5 spect to organizations designed to be exempt under such
 6 section and plans designed to be plans to which such part
 7 applies) and other nonqualified deferred compensation ar-
 8 rangements. The Assistant Commissioner shall report an-
 9 nually to the Commissioner with respect to the Assistant
 10 Commissioner's responsibilities under this section.

11 “(c) OFFICE OF TAXPAYER ADVOCATE.—

12 “(1) IN GENERAL.—

13 “(A) ESTABLISHMENT.—There is estab-
 14 lished in the Internal Revenue Service an office
 15 to be known as the ‘Office of the Taxpayer Ad-
 16 vocate’. Such office shall be under the super-
 17 vision and direction of an official to be known
 18 as the ‘Taxpayer Advocate’ who shall be ap-
 19 pointed with the approval of the Oversight
 20 Board by the Commissioner of Internal Reve-
 21 nue and shall report directly to the Commis-
 22 sioner. The Taxpayer Advocate shall be entitled
 23 to compensation at the same rate as the highest
 24 level official reporting directly to the Commis-
 25 sioner of Internal Revenue.

1 “(B) RESTRICTION ON SUBSEQUENT EM-
2 PLOYMENT.—An individual who is an officer or
3 employee of the Internal Revenue Service may
4 be appointed as Taxpayer Advocate only if such
5 individual agrees not to accept any employment
6 with the Internal Revenue Service for at least
7 5 years after ceasing to be the Taxpayer Advoca-
8 cate.

9 “(2) FUNCTIONS OF OFFICE.—

10 “(A) IN GENERAL.—It shall be the func-
11 tion of the Office of Taxpayer Advocate to—

12 “(i) assist taxpayers in resolving prob-
13 lems with the Internal Revenue Service,

14 “(ii) identify areas in which taxpayers
15 have problems in dealings with the Internal
16 Revenue Service,

17 “(iii) to the extent possible, propose
18 changes in the administrative practices of
19 the Internal Revenue Service to mitigate
20 problems identified under clause (ii), and

21 “(iv) identify potential legislative
22 changes which may be appropriate to miti-
23 gate such problems.

24 “(B) ANNUAL REPORTS.—

1 “(i) OBJECTIVES.—Not later than
2 June 30 of each calendar year, the Tax-
3 payer Advocate shall report to the Commit-
4 tee on Ways and Means of the House of
5 Representatives and the Committee on Fi-
6 nance of the Senate on the objectives of
7 the Taxpayer Advocate for the fiscal year
8 beginning in such calendar year. Any such
9 report shall contain full and substantive
10 analysis, in addition to statistical informa-
11 tion.

12 “(ii) ACTIVITIES.—Not later than De-
13 cember 31 of each calendar year, the Tax-
14 payer Advocate shall report to the Commit-
15 tee on Ways and Means of the House of
16 Representatives and the Committee on Fi-
17 nance of the Senate on the activities of the
18 Taxpayer Advocate during the fiscal year
19 ending during such calendar year. Any
20 such report shall contain full and sub-
21 stantive analysis, in addition to statistical
22 information, and shall—

23 “(I) identify the initiatives the
24 Taxpayer Advocate has taken on im-

1 proving taxpayer services and Internal
2 Revenue Service responsiveness,

3 “(II) contain recommendations
4 received from individuals with the au-
5 thority to issue Taxpayer Assistance
6 Orders under section 7811,

7 “(III) contain a summary of at
8 least 20 of the most serious problems
9 encountered by taxpayers, including a
10 description of the nature of such prob-
11 lems,

12 “(IV) contain an inventory of the
13 items described in subclauses (I), (II),
14 and (III) for which action has been
15 taken and the result of such action,

16 “(V) contain an inventory of the
17 items described in subclauses (I), (II),
18 and (III) for which action remains to
19 be completed and the period during
20 which each item has remained on such
21 inventory,

22 “(VI) contain an inventory of the
23 items described in subclauses (I), (II),
24 and (III) for which no action has been
25 taken, the period during which each

1 item has remained on such inventory,
2 the reasons for the inaction, and iden-
3 tify any Internal Revenue Service offi-
4 cial who is responsible for such inac-
5 tion,

6 “(VII) identify any Taxpayer As-
7 sistance Order which was not honored
8 by the Internal Revenue Service in a
9 timely manner, as specified under sec-
10 tion 7811(b),

11 “(VIII) contain recommendations
12 for such administrative and legislative
13 action as may be appropriate to re-
14 solve problems encountered by tax-
15 payers,

16 “(IX) identify areas of the tax
17 law that impose significant compliance
18 burdens on taxpayers or the Internal
19 Revenue Service, including specific
20 recommendations for remedying these
21 problems,

22 “(X) in conjunction with the Na-
23 tional Director of Appeals, identify
24 the 10 most litigated issues for each
25 category of taxpayers, including rec-

1 ommendations for mitigating such dis-
2 putes, and

3 “(XI) include such other infor-
4 mation as the Taxpayer Advocate may
5 deem advisable.

6 “(iii) REPORT TO BE SUBMITTED DI-
7 RECTLY.—Each report required under this
8 subparagraph shall be provided directly to
9 the committees described in clauses (i) and
10 (ii) without any prior review or comment
11 from the Oversight Board, the Secretary of
12 the Treasury, any other officer or employee
13 of the Department of the Treasury, or the
14 Office of Management and Budget.

15 “(C) OTHER RESPONSIBILITIES.—The
16 Taxpayer Advocate shall—

17 “(i) monitor the coverage and geo-
18 graphic allocation of problem resolution of-
19 ficers, and

20 “(ii) develop guidance to be distrib-
21 uted to all Internal Revenue Service offi-
22 cers and employees outlining the criteria
23 for referral of taxpayer inquiries to prob-
24 lem resolution officers.

1 “(3) RESPONSIBILITIES OF COMMISSIONER.—

2 The Commissioner shall establish procedures requir-
3 ing a formal response to all recommendations sub-
4 mitted to the Commissioner by the Taxpayer Advoc-
5 ate within 3 months after submission to the Com-
6 missioner.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) The table of sections for subchapter A of
9 chapter 80 is amended by striking the item relating
10 to section 7803 and inserting the following new
11 item:

 “Sec. 7803. Commissioner of Internal Revenue; other officials.”

12 (2) Subsection (b) of section 5109 of title 5,
13 United States Code, is amended by striking
14 “7802(b)” and inserting “7803(b)”.

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall take effect on the date of the en-
18 actment of this Act.

19 (2) CURRENT OFFICERS.—

20 (A) In the case of an individual serving as
21 Commissioner of Internal Revenue on the date
22 of the enactment of this Act who was appointed
23 to such position before such date, the 5-year
24 term required by section 7803(a)(1) of the In-
25 ternal Revenue Code of 1986, as added by this

1 section, shall begin as of the date of such ap-
 2 pointment.

3 (B) Section 7803(c)(1)(B) of such Code,
 4 as added by this section, shall not apply to the
 5 individual serving as Taxpayer Advocate on the
 6 date of the enactment of this Act.

7 **SEC. 103. OTHER PERSONNEL.**

8 (a) IN GENERAL.—Section 7804 (relating to the ef-
 9 fect of reorganization plans) is amended to read as follows:

10 **“SEC. 7804. OTHER PERSONNEL.**

11 “(a) APPOINTMENT AND SUPERVISION.—Unless oth-
 12 erwise prescribed by the Secretary, the Commissioner of
 13 Internal Revenue is authorized to employ such number of
 14 persons as the Commissioner deems proper for the admin-
 15 istration and enforcement of the internal revenue laws,
 16 and the Commissioner shall issue all necessary directions,
 17 instructions, orders, and rules applicable to such persons.

18 “(b) POSTS OF DUTY OF EMPLOYEES IN FIELD
 19 SERVICE OR TRAVELING.—Unless otherwise prescribed by
 20 the Secretary—

21 “(1) DESIGNATION OF POST OF DUTY.—The
 22 Commissioner shall determine and designate the
 23 posts of duty of all such persons engaged in field
 24 work or traveling on official business outside of the
 25 District of Columbia.

1 “(2) DETAIL OF PERSONNEL FROM FIELD
2 SERVICE.—The Commissioner may order any such
3 person engaged in field work to duty in the District
4 of Columbia, for such periods as the Commissioner
5 may prescribe, and to any designated post of duty
6 outside the District of Columbia upon the comple-
7 tion of such duty.

8 “(c) DELINQUENT INTERNAL REVENUE OFFICERS
9 AND EMPLOYEES.—If any officer or employee of the
10 Treasury Department acting in connection with the inter-
11 nal revenue laws fails to account for and pay over any
12 amount of money or property collected or received by him
13 in connection with the internal revenue laws, the Secretary
14 shall issue notice and demand to such officer or employee
15 for payment of the amount which he failed to account for
16 and pay over, and, upon failure to pay the amount de-
17 manded within the time specified in such notice, the
18 amount so demanded shall be deemed imposed upon such
19 officer or employee and assessed upon the date of such
20 notice and demand, and the provisions of chapter 64 and
21 all other provisions of law relating to the collection of as-
22 sessed taxes shall be applicable in respect of such
23 amount.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (b) of section 6344 is amended
 2 by striking “section 7803(d)” and inserting “section
 3 7804(c)”.

4 (2) The table of sections for subchapter A of
 5 chapter 80 is amended by striking the item relating
 6 to section 7804 and inserting the following new
 7 item:

 “Sec. 7804. Other personnel.”

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall take effect on the date of the enactment
 10 of this Act.

11 **SEC. 104. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
 12 **ENCE OVER TAXPAYER AUDITS AND COLLEC-**
 13 **TION ACTIVITY.**

14 (a) IN GENERAL.—Part I of subchapter A of chapter
 15 75 (relating to crimes, other offenses, and forfeitures) is
 16 amended by adding after section 7216 the following new
 17 section:

18 **“SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLU-**
 19 **ENCE OVER TAXPAYER AUDITS AND COLLEC-**
 20 **TION ACTIVITY.**

21 “(a) PROHIBITION.—It shall be unlawful for any ap-
 22 plicable person to request any officer or employee of the
 23 Internal Revenue Service to conduct or terminate an audit
 24 or other investigation of any particular taxpayer with re-
 25 spect to the tax liability of such taxpayer.

1 “(b) REPORTING REQUIREMENT.—Any officer or em-
2 ployee of the Internal Revenue Service receiving any re-
3 quest prohibited by subsection (a) shall report the receipt
4 of such request to the Chief Inspector of the Internal Rev-
5 enue Service.

6 “(c) EXCEPTIONS.—Subsection (a) shall not apply
7 to—

8 “(1) any request made to an applicable person
9 by the taxpayer or a representative of the taxpayer
10 and forwarded by such applicable person to the In-
11 ternal Revenue Service,

12 “(2) any request by an applicable person for
13 disclosure of return or return information under sec-
14 tion 6103 if such request is made in accordance with
15 the requirements of such section, or

16 “(3) any request by the Secretary of the Treas-
17 ury as a consequence of the implementation of a
18 change in tax policy.

19 “(d) PENALTY.—Any person who willfully violates
20 subsection (a) or fails to report under subsection (b) shall
21 be punished upon conviction by a fine in any amount not
22 exceeding \$5,000, or imprisonment of not more than 5
23 years, or both, together with the costs of prosecution.

24 “(e) APPLICABLE PERSON.—For purposes of this
25 section, the term ‘applicable person’ means—

1 “(1) the President, the Vice President, any em-
2 ployee of the executive office of the President, and
3 any employee of the executive office of the Vice
4 President, and

5 “(2) any individual (other than the Attorney
6 General of the United States) serving in a position
7 specified in section 5312 of title 5, United States
8 Code.”

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for part I of subchapter A of chapter 75 is amended by
11 adding after the item relating to section 7216 the follow-
12 ing new item:

“Sec. 7217. Prohibition on executive branch influence over tax-
payer audits and collection activity.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to requests made after the date
15 of the enactment of this Act.

16 **Subtitle B—Personnel Flexibilities**

17 **SEC. 111. PERSONNEL FLEXIBILITIES.**

18 (a) IN GENERAL.—Part III of title 5, United States
19 Code, is amended by adding at the end the following new
20 subpart:

“Subpart I—Miscellaneous

“CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

“Sec.

“9301. General requirements.

“9302. Flexibilities relating to performance management.

“9303. Staffing flexibilities.

“9304. Flexibilities relating to demonstration projects.

“§ 9301. General requirements

“(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

“(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

“(2) provisions of this title (outside of this subpart) relating to preference eligibles.

“(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

“(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, or 9304, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

1 “(2) DEFINITION OF A WRITTEN AGREE-
2 MENT.—In order to satisfy paragraph (1), a written
3 agreement—

4 “(A) need not be a collective bargaining
5 agreement within the meaning of section
6 7103(8); and

7 “(B) may not be an agreement imposed by
8 the Federal Service Impasses Panel under sec-
9 tion 7119.

10 **“§ 9302. Flexibilities relating to performance manage-**
11 **ment**

12 “(a) IN GENERAL.—The Commissioner of Internal
13 Revenue shall, within a year after the date of the enact-
14 ment of this chapter, establish a performance management
15 system which—

16 “(1) subject to section 9301(b), shall cover all
17 employees of the Internal Revenue Service other
18 than—

19 “(A) the members of the Internal Revenue
20 Service Oversight Board;

21 “(B) the Commissioner of Internal Reve-
22 nue; and

23 “(C) the Chief Counsel for the Internal
24 Revenue Service;

1 “(2) shall maintain individual accountability
2 by—

3 “(A) establishing standards of performance
4 which—

5 “(i) shall permit the accurate evalua-
6 tion of each employee’s performance on the
7 basis of the individual and organizational
8 performance requirements applicable with
9 respect to the evaluation period involved,
10 taking into account individual contribu-
11 tions toward the attainment of any goals
12 or objectives under paragraph (3);

13 “(ii) shall be communicated to an em-
14 ployee before the start of any period with
15 respect to which the performance of such
16 employee is to be evaluated using such
17 standards; and

18 “(iii) shall include at least 2 stand-
19 ards of performance, the lowest of which
20 shall denote the retention standard and
21 shall be equivalent to fully successful per-
22 formance;

23 “(B) providing for periodic performance
24 evaluations to determine whether employees are
25 meeting all applicable retention standards; and

1 “(C) using the results of such employee’s
2 performance evaluation as a basis for adjust-
3 ments in pay and other appropriate personnel
4 actions; and

5 “(3) shall provide for (A) establishing goals or
6 objectives for individual, group, or organizational
7 performance (or any combination thereof), consistent
8 with Internal Revenue Service performance planning
9 procedures, including those established under the
10 Government Performance and Results Act of 1993,
11 the Information Technology Management Reform
12 Act of 1996, Revenue Procedure 64–22 (as in effect
13 on July 30, 1997), and taxpayer service surveys, (B)
14 communicating such goals or objectives to employ-
15 ees, and (C) using such goals or objectives to make
16 performance distinctions among employees or groups
17 of employees.

18 For purposes of this title, performance of an employee
19 during any period in which such employee is subject to
20 standards of performance under paragraph (2) shall be
21 considered to be ‘unacceptable’ if the performance of such
22 employee during such period fails to meet any retention
23 standard.

24 “(b) AWARDS.—

1 “(1) FOR SUPERIOR ACCOMPLISHMENTS.—In
2 the case of a proposed award based on the efforts
3 of an employee or former employee of the Internal
4 Revenue Service, any approval required under the
5 provisions of section 4502(b) shall be considered to
6 have been granted if the Office of Personnel Man-
7 agement does not disapprove the proposed award
8 within 60 days after receiving the appropriate cer-
9 tification described in such provisions.

10 “(2) FOR EMPLOYEES WHO REPORT DIRECTLY
11 TO THE COMMISSIONER.—

12 “(A) IN GENERAL.—In the case of an em-
13 ployee of the Internal Revenue Service who re-
14 ports directly to the Commissioner of Internal
15 Revenue, a cash award in an amount up to 50
16 percent of such employee’s annual rate of basic
17 pay may be made if the Commissioner finds
18 such an award to be warranted based on such
19 employee’s performance.

20 “(B) NATURE OF AN AWARD.—A cash
21 award under this paragraph shall not be consid-
22 ered to be part of basic pay.

23 “(C) TAX ENFORCEMENT RESULTS.—A
24 cash award under this paragraph may not be
25 based solely on tax enforcement results.

1 “(D) ELIGIBLE EMPLOYEES.—Whether or
2 not an employee is an employee who reports di-
3 rectly to the Commissioner of Internal Revenue
4 shall, for purposes of this paragraph, be deter-
5 mined under regulations which the Commis-
6 sioner shall prescribe, except that in no event
7 shall more than 8 employees be eligible for a
8 cash award under this paragraph in any cal-
9 endar year.

10 “(E) LIMITATION ON COMPENSATION.—
11 For purposes of applying section 5307 to an
12 employee in connection with any calendar year
13 to which an award made under this paragraph
14 to such employee is attributable, subsection
15 (a)(1) of such section shall be applied by sub-
16 stituting ‘to equal or exceed the annual rate of
17 compensation for the Vice President for such
18 calendar year’ for ‘to exceed the annual rate of
19 basic pay payable for level I of the Executive
20 Schedule, as of the end of such calendar year’.

21 “(F) APPROVAL REQUIRED.—An award
22 under this paragraph may not be made un-
23 less—

24 “(i) the Commissioner of Internal
25 Revenue certifies to the Office of Personnel

1 Management that such award is war-
2 ranted; and

3 “(ii) the Office approves, or does not
4 disapprove, the proposed award within 60
5 days after the date on which it is so cer-
6 tified.

7 “(3) BASED ON SAVINGS.—

8 “(A) IN GENERAL.—The Commissioner of
9 Internal Revenue may authorize the payment of
10 cash awards to employees based on documented
11 financial savings achieved by a group or organi-
12 zation which such employees comprise, if such
13 payments are made pursuant to a plan which—

14 “(i) specifies minimum levels of serv-
15 ice and quality to be maintained while
16 achieving such financial savings; and

17 “(ii) is in conformance with criteria
18 prescribed by the Office of Personnel Man-
19 agement.

20 “(B) FUNDING.—A cash award under this
21 paragraph may be paid from the fund or appro-
22 priation available to the activity primarily bene-
23 fitting or the various activities benefiting.

1 “(C) TAX ENFORCEMENT RESULTS.—A
 2 cash award under this paragraph may not be
 3 based solely on tax enforcement results.

4 “(c) OTHER PROVISIONS.—

5 “(1) NOTICE PROVISIONS.—In applying sections
 6 4303(b)(1)(A) and 7513(b)(1) to employees of the
 7 Internal Revenue Service, ‘15 days’ shall be sub-
 8 stituted for ‘30 days’.

9 “(2) APPEALS.—Notwithstanding the second
 10 sentence of section 5335(c), an employee of the In-
 11 ternal Revenue Service shall not have a right to ap-
 12 peal the denial of a periodic step increase under sec-
 13 tion 5335 to the Merit Systems Protection Board.

14 **“§ 9303. Staffing flexibilities**

15 “(a) IN GENERAL.—

16 “(1) PERMANENT APPOINTMENT IN THE COM-
 17 PETITIVE SERVICE.—

18 “(A) QUALIFIED VETERANS.—

19 “(i) IN GENERAL.—No veteran de-
 20 scribed in clause (ii) shall be denied the
 21 opportunity to compete for an announced
 22 vacant competitive service position within
 23 the Internal Revenue Service by reason
 24 of—

1 “(I) not having acquired competi-
2 tive status; or

3 “(II) not being an employee of
4 that agency.

5 “(ii) DESCRIPTION.—An individual
6 shall, for purposes of a position for which
7 such individual is applying, be considered a
8 veteran described in this clause if such in-
9 dividual—

10 “(I) is either a preference eligi-
11 ble, or an individual (other than a
12 preference eligible) who has been sep-
13 arated from the armed forces under
14 honorable conditions after at least 3
15 years of active service; and

16 “(II) meets the minimum quali-
17 fication requirements for the position
18 sought.

19 “(B) QUALIFIED TEMPORARY EMPLOY-
20 EES.—

21 “(i) IN GENERAL.—No temporary em-
22 ployee described in clause (ii) shall be de-
23 nied the opportunity to compete for an an-
24 nounced vacant competitive service position
25 within the Internal Revenue Service by

1 reason of not having acquired competitive
2 status.

3 “(ii) DESCRIPTION.—An individual
4 shall, for purposes of a position for which
5 such individual is applying, be considered a
6 temporary employee described in this
7 clause if—

8 “(I) such individual is then cur-
9 rently serving as a temporary em-
10 ployee in the Internal Revenue Serv-
11 ice;

12 “(II) such individual has com-
13 pleted at least 2 years of current con-
14 tinuous service in the competitive
15 service under 1 or more term appoint-
16 ments, each of which was made under
17 competitive procedures prescribed for
18 permanent appointments;

19 “(III) such individual’s perform-
20 ance under each term appointment re-
21 ferred to in subclause (II) met all ap-
22 plicable retention standards; and

23 “(IV) such individual meets the
24 minimum qualification requirements
25 for the position sought.

1 “(b) RATING SYSTEMS.—

2 “(1) IN GENERAL.—Notwithstanding sub-
3 chapter I of chapter 33, the Commissioner of Inter-
4 nal Revenue may establish category rating systems
5 for evaluating job applicants for positions in the
6 competitive service, under which qualified candidates
7 are divided into 2 or more quality categories on the
8 basis of relative degrees of merit, rather than as-
9 signed individual numerical ratings. Each applicant
10 who meets the minimum qualification requirements
11 for the position to be filled shall be assigned to an
12 appropriate category based on an evaluation of the
13 applicant’s knowledge, skills, and abilities relative to
14 those needed for successful performance in the job
15 to be filled.

16 “(2) TREATMENT OF PREFERENCE ELIGI-
17 BLES.—Within each quality category established
18 under paragraph (1), preference eligibles shall be
19 listed ahead of individuals who are not preference
20 eligibles. For other than scientific and professional
21 positions at or higher than GS–9 (or equivalent),
22 preference eligibles who have a compensable service-
23 connected disability of 10 percent or more, and who
24 meet the minimum qualification standards, shall be
25 listed in the highest quality category.

1 “(3) SELECTION PROCESS.—An appointing au-
2 thority may select any applicant from the highest
3 quality category or, if fewer than 3 candidates have
4 been assigned to the highest quality category, from
5 a merged category consisting of the highest and sec-
6 ond highest quality categories. Notwithstanding the
7 preceding sentence, the appointing authority may
8 not pass over a preference eligible in the same or a
9 higher category from which selection is made, unless
10 the requirements of section 3317(b) or 3318(b), as
11 applicable, are satisfied, except that in no event may
12 certification of a preference eligible under this sub-
13 section be discontinued by the Internal Revenue
14 Service under section 3317(b) before the end of the
15 6-month period beginning on the date of such em-
16 ployee’s first certification.

17 “(c) INVOLUNTARY REASSIGNMENTS AND REMOVALS
18 OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE
19 SERVICE.—Neither section 3395(e)(1) nor section
20 3592(b)(1) shall apply with respect to the Internal Reve-
21 nue Service.

22 “(d) PROBATIONARY PERIODS.—Notwithstanding
23 any other provision of law or regulation, the Commissioner
24 of Internal Revenue may establish a period of probation
25 under section 3321 of up to 3 years for any position if,

1 as determined by the Commissioner, a shorter period
2 would be insufficient for the incumbent to demonstrate
3 complete proficiency in such position.

4 “(e) PROVISIONS THAT REMAIN APPLICABLE.—No
5 provision of this section exempts the Internal Revenue
6 Service from—

7 “(1) any employment priorities established
8 under direction of the President for the placement of
9 surplus or displaced employees; or

10 “(2) its obligations under any court order or
11 decree relating to the employment practices of the
12 Internal Revenue Service.

13 **“§ 9304. Flexibilities relating to demonstration**
14 **projects**

15 “(a) AUTHORITY TO CONDUCT.—The Commissioner
16 of Internal Revenue may, in accordance with this section,
17 conduct 1 or more demonstration projects to improve per-
18 sonnel management; provide increased individual account-
19 ability; eliminate obstacles to the removal of or imposing
20 any disciplinary action with respect to poor performers,
21 subject to the requirements of due process; expedite ap-
22 peals from adverse actions or performance-based actions;
23 and promote pay based on performance.

1 “(b) GENERAL REQUIREMENTS.—Except as provided
 2 in subsection (c), each demonstration project under this
 3 section shall comply with the provisions of section 4703.

4 “(c) SPECIAL RULES.—For purposes of any dem-
 5 onstration project under this section—

6 “(1) AUTHORITY OF COMMISSIONER.—The
 7 Commissioner of Internal Revenue shall exercise the
 8 authority provided to the Office of Personnel Man-
 9 agement under section 4703.

10 “(2) PROVISIONS NOT APPLICABLE.—The fol-
 11 lowing provisions of section 4703 shall not apply:

12 “(A) Paragraphs (3) through (6) of sub-
 13 section (b).

14 “(B) Paragraphs (1), (2)(B)(ii), and (4) of
 15 subsection (c).

16 “(C) Subsections (d) through (g).

17 “(d) NOTIFICATION REQUIRED TO BE GIVEN.—

18 “(1) TO EMPLOYEES.—The Commissioner of
 19 Internal Revenue shall notify employees likely to be
 20 affected by a project proposed under this section at
 21 least 90 days in advance of the date such project is
 22 to take effect.

23 “(2) TO CONGRESS AND OPM.—The Commis-
 24 sioner of Internal Revenue shall, with respect to
 25 each demonstration project under this section, pro-

1 vide each House of Congress and the Office of Per-
2 sonnel Management with a report, at least 30 days
3 in advance of the date such project is to take effect,
4 setting forth the final version of the plan for such
5 project. Such report shall, with respect to the project
6 to which it relates, include the information specified
7 in section 4703(b)(1).

8 “(e) LIMITATIONS.—No demonstration project under
9 this section may—

10 “(1) provide for a waiver of any regulation pre-
11 scribed under any provision of law referred to in
12 paragraph (2)(B)(i) or (3) of section 4703(c);

13 “(2) provide for a waiver of subchapter V of
14 chapter 63 or subpart G of part III (or any regula-
15 tions prescribed under such subchapter or subpart);

16 “(3) provide for a waiver of any law or regula-
17 tion relating to preference eligibles as defined in sec-
18 tion 2108 or subchapter II or III of chapter 73 (or
19 any regulations prescribed thereunder);

20 “(4) permit collective bargaining over pay or
21 benefits, or require collective bargaining over any
22 matter which would not be required under section
23 7106; or

1 “(5) include a system for measuring perform-
2 ance that provides for only 1 level of performance at
3 or above the level of fully successful or better.

4 “(f) PERMISSIBLE PROJECTS.—Notwithstanding any
5 other provision of law, a demonstration project under this
6 section—

7 “(1) may establish alternative means of resolv-
8 ing any dispute within the jurisdiction of the Equal
9 Employment Opportunity Commission, the Merit
10 Systems Protection Board, the Federal Labor Rela-
11 tions Authority, or the Federal Service Impasses
12 Panel; and

13 “(2) may permit the Internal Revenue Service
14 to adopt any alternative dispute resolution procedure
15 that a private entity may lawfully adopt.

16 “(g) CONSULTATION AND COORDINATION.—The
17 Commissioner of Internal Revenue shall consult with the
18 Director of the Office of Personnel Management in the
19 development and implementation of each demonstration
20 project under this section and shall submit such reports
21 to the Director as the Director may require. The Director
22 or the Commissioner of Internal Revenue may terminate
23 a demonstration project under this section if either of
24 them determines that the project creates a substantial
25 hardship on, or is not in the best interests of, the public,

1 the Federal Government, employees, or qualified appli-
 2 cants for employment with the Internal Revenue Service.

3 “(h) TERMINATION.—Each demonstration project
 4 under this section shall terminate before the end of the
 5 5-year period beginning on the date on which the project
 6 takes effect, except that any such project may continue
 7 beyond the end of such period, for not to exceed 2 years,
 8 if the Commissioner of Internal Revenue, with the concur-
 9 rence of the Director, determines such extension is nec-
 10 essary to validate the results of the project. Not later than
 11 6 months before the end of the 5-year period and any ex-
 12 tension under the preceding sentence, the Commissioner
 13 of Internal Revenue shall, with respect to the demonstra-
 14 tion project involved, submit a legislative proposal to the
 15 Congress if the Commissioner determines that such
 16 project should be made permanent, in whole or in part.”

17 (b) CLERICAL AMENDMENT.—The analysis for part
 18 III of title 5, United States Code, is amended by adding
 19 at the end the following:

“Subpart I—Miscellaneous

“93. Personnel Flexibilities Relating to the Internal Revenue
 Service 9301”.

20 (c) EFFECTIVE DATE.—This section shall take effect
 21 on the date of enactment of this Act.

1 **TITLE II—ELECTRONIC FILING**

2 **SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION**

3 **RETURNS.**

4 (a) IN GENERAL.—It is the policy of the Congress
5 that paperless filing should be the preferred and most con-
6 venient means of filing tax and information returns, and
7 that by the year 2007, no more than 20 percent of all
8 such returns should be filed on paper.

9 (b) STRATEGIC PLAN.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of the enactment of this Act, the Sec-
12 retary of the Treasury or the Secretary's delegate
13 (hereafter in this section referred to as the "Sec-
14 retary") shall establish a plan to eliminate barriers,
15 provide incentives, and use competitive market
16 forces to increase electronic filing gradually over the
17 next 10 years while maintaining processing times for
18 paper returns at 40 days. To the extent practicable,
19 such plan shall provide that all returns prepared
20 electronically for taxable years beginning after 2001
21 shall be filed electronically.

22 (2) ELECTRONIC COMMERCE ADVISORY
23 GROUP.—To ensure that the Secretary receives input
24 from the private sector in the development and im-
25 plementation of the plan required by paragraph (1),

1 the Secretary shall convene an electronic commerce
 2 advisory group to include representatives from the
 3 tax practitioner, preparer, and computerized tax
 4 processor communities and other representatives
 5 from the electronic filing industry.

6 (c) PROMOTION OF ELECTRONIC FILING AND INCEN-
 7 TIVES.—Section 6011 is amended by redesignating sub-
 8 section (f) as subsection (g) and by inserting after sub-
 9 section (e) the following new subsection:

10 “(f) PROMOTION OF ELECTRONIC FILING.—

11 (1) IN GENERAL.—The Secretary is authorized
 12 to promote the benefits of and encourage the use of
 13 electronic tax administration programs, as they be-
 14 come available, through the use of mass communica-
 15 tions and other means.

16 “(2) INCENTIVES.—The Secretary may imple-
 17 ment procedures to provide for the payment of ap-
 18 propriate incentives for electronically filed returns.”

19 (d) ANNUAL REPORTS.—Not later than June 30 of
 20 each calendar year after 1997, the Chairperson of the In-
 21 ternal Revenue Service Oversight Board, the Secretary,
 22 and the Chairperson of the electronic commerce advisory
 23 group established under subsection (b)(2) shall report to
 24 the Committees on Ways and Means, Appropriations, and
 25 Government Reform and Oversight of the House of Rep-

1 representatives, the Committees on Finance, Appropriations,
 2 and Government Affairs of the Senate, and the Joint Com-
 3 mittee on Taxation, on—

4 (1) the progress of the Internal Revenue Serv-
 5 ice in meeting the goal of receiving electronically 80
 6 percent of tax and information returns by 2007;

7 (2) the status of the plan required by sub-
 8 section (b); and

9 (3) the legislative changes necessary to assist
 10 the Internal Revenue Service in meeting such goal.

11 **SEC. 202. DUE DATE FOR CERTAIN INFORMATION RETURNS**

12 **FILED ELECTRONICALLY.**

13 (a) IN GENERAL.—Section 6071 (relating to time for
 14 filing returns and other documents) is amended by redes-
 15 ignating subsection (b) as subsection (c) and by inserting
 16 after subsection (a) the following new subsection:

17 “(b) ELECTRONICALLY FILED INFORMATION RE-
 18 TURNS.—Returns made under subparts B and C of part
 19 III of this subchapter which are filed electronically shall
 20 be filed on or before March 31 of the year following the
 21 calendar year to which such returns relate.”

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall apply to returns required to be filed after
 24 December 31, 1999.

1 **SEC. 203. PAPERLESS ELECTRONIC FILING.**

2 (a) IN GENERAL.—Section 6061 (relating to signing
3 of returns and other documents) is amended—

4 (1) by striking “Except as otherwise provided
5 by” and inserting the following:

6 “(a) GENERAL RULE.—Except as otherwise provided
7 by subsection (b) and”, and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b) ELECTRONIC SIGNATURES.—

11 “(1) IN GENERAL.—The Secretary shall develop
12 procedures for the acceptance of signatures in digital
13 or other electronic form. Until such time as such
14 procedures are in place, the Secretary may waive the
15 requirement of a signature for all returns or classes
16 of returns, or may provide for alternative methods of
17 subscribing all returns, declarations, statements, or
18 other documents required or permitted to be made
19 or written under internal revenue laws and regula-
20 tions.

21 “(2) TREATMENT OF ALTERNATIVE METH-
22 ODS.—Notwithstanding any other provision of law,
23 any return, declaration, statement or other docu-
24 ment filed without signature under the authority of
25 this subsection or verified, signed or subscribed
26 under any method adopted under paragraph (1)

1 shall be treated for all purposes (both civil and
2 criminal, including penalties for perjury) in the same
3 manner as though signed and subscribed. Any such
4 return, declaration, statement or other document
5 shall be presumed to have been actually submitted
6 and subscribed by the person on whose behalf it was
7 submitted.

8 “(3) PUBLISHED GUIDANCE.—The Secretary
9 shall publish guidance as appropriate to define and
10 implement any waiver of the signature require-
11 ments.”

12 (b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—
13 Section 7502(c) is amended to read as follows:

14 “(c) REGISTERED AND CERTIFIED MAILING; ELEC-
15 TRONIC FILING.—

16 “(1) REGISTERED MAIL.—For purposes of this
17 section, if any return, claim, statement, or other
18 document, or payment, is sent by United States reg-
19 istered mail—

20 “(A) such registration shall be prima facie
21 evidence that the return, claim, statement, or
22 other document was delivered to the agency, of-
23 ficer, or office to which addressed, and

24 “(B) the date of registration shall be
25 deemed the postmark date.

1 “(2) CERTIFIED MAIL; ELECTRONIC FILING.—

2 The Secretary is authorized to provide by regula-
3 tions the extent to which the provisions of paragraph
4 (1) with respect to prima facie evidence of delivery
5 and the postmark date shall apply to certified mail
6 and electronic filing.”.

7 (c) ESTABLISHMENT OF PROCEDURES FOR OTHER
8 INFORMATION.—In the case of taxable periods beginning
9 after December 31, 1998, the Secretary of the Treasury
10 or the Secretary’s delegate shall, to the extent practicable,
11 establish procedures to accept, in electronic form, any
12 other information, statements, elections, or schedules,
13 from taxpayers filing returns electronically, so that such
14 taxpayers will not be required to file any paper.

15 (d) PROCEDURES FOR COMMUNICATIONS BETWEEN
16 IRS AND PREPARER OF ELECTRONICALLY-FILED RE-
17 TURNS.—The Secretary shall establish procedures for tax-
18 payers to authorize, on electronically filed returns, the pre-
19 parer of such returns to communicate with the Internal
20 Revenue Service on matters included on such returns.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 204. RETURN-FREE TAX SYSTEM.**

2 (a) IN GENERAL.—The Secretary of the Treasury or
3 the Secretary's delegate shall develop procedures for the
4 implementation of a return-free tax system under which
5 appropriate individuals would be permitted to comply with
6 the Internal Revenue Code of 1986 without making the
7 return required under section 6012 of such Code for tax-
8 able years beginning after 2007.

9 (b) REPORT.—Not later than June 30 of each cal-
10 endar year after 1999, such Secretary shall report to the
11 Committee on Ways and Means of the House of Rep-
12 resentatives, the Committee on Finance of the Senate, and
13 the Joint Committee on Taxation on—

14 (1) what additional resources the Internal Reve-
15 nue Service would need to implement such a system,

16 (2) the changes to the Internal Revenue Code
17 of 1986 that could enhance the use of such a sys-
18 tem,

19 (3) the procedures developed pursuant to sub-
20 section (a), and

21 (4) the number and classes of taxpayers that
22 would be permitted to use the procedures developed
23 pursuant to subsection (a).

24 **SEC. 205. ACCESS TO ACCOUNT INFORMATION.**

25 Not later than December 31, 2006, the Secretary of
26 the Treasury or the Secretary's delegate shall develop pro-

cedures under which a taxpayer filing returns electronically would be able to review the taxpayer’s account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

TITLE III—TAXPAYER PROTECTION AND RIGHTS

SEC. 300. SHORT TITLE.

This title may be cited as the “Taxpayer Bill of Rights 3”.

Subtitle A—Burden of Proof

SEC. 301. BURDEN OF PROOF.

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

“Subchapter E—Burden of Proof

“Sec. 7491. Burden of proof.

“SEC. 7491. BURDEN OF PROOF.

“(a) GENERAL RULE.—The Secretary shall have the burden of proof in any court proceeding with respect to any factual issue relevant to ascertaining the income tax liability of a taxpayer.

“(b) LIMITATIONS.—Subsection (a) shall only apply with respect to an issue if—

“(1) the taxpayer asserts a reasonable dispute with respect to such issue,

1 “(2) the taxpayer has fully cooperated with the
2 Secretary with respect to such issue, including pro-
3 viding, within a reasonable period of time, access to
4 and inspection of all witnesses, information, and
5 documents within the control of the taxpayer, as rea-
6 sonably requested by the Secretary, and

7 “(3) in the case of a partnership, corporation,
8 or trust, the taxpayer is described in section
9 7430(c)(4)(A)(ii).

10 “(c) SUBSTANTIATION.—Nothing in this section shall
11 be construed to override any requirement of this title to
12 substantiate any item.”

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 6201 is amended by striking sub-
15 section (d) and redesignating subsection (e) as sub-
16 section (d).

17 (2) The table of subchapters for chapter 76 is
18 amended by adding at the end the following new
19 item:

 “Subchapter E. Burden of proof.”

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to court proceedings arising in con-
22 nection with examinations commencing after the date of
23 the enactment of this Act.

Subtitle B—Proceedings by Taxpayers

SEC. 311. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AWARD OF HIGHER ATTORNEY’S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting “, the difficulty of the issues presented in the case, or the local availability of tax expertise,” before “justifies a higher rate”.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following:

“Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent. Clause (iii) of the preceding sentence shall apply only if, on the basis of information in the possession of the

1 United States as of the date referred to in such
2 clause, there is no reasonable basis for the position
3 of the United States.”

4 (c) AWARD OF FEES FOR CERTAIN ADDITIONAL
5 SERVICES.—Paragraph (3) of section 7430(c) is amended
6 to read as follows:

7 “(3) ATTORNEY’S FEES.—

8 “(A) IN GENERAL.—For purposes of para-
9 graphs (1) and (2), fees for the services of an
10 individual (whether or not an attorney) who is
11 authorized to practice before the Tax Court or
12 before the Internal Revenue Service shall be
13 treated as fees for the services of an attorney.

14 “(B) PRO BONO SERVICES.—In any case in
15 which the court could have awarded attorney’s
16 fees under subsection (a) but for the fact that
17 an individual is representing the prevailing
18 party for a fee which (taking into account all
19 the facts and circumstances) is no more than a
20 nominal fee, the court may also award a judg-
21 ment or settlement for such amounts as the
22 court determines to be appropriate (based on
23 hours worked and costs expended) for services
24 of such individual but only if such award is paid

1 to such individual or such individual's em-
 2 ployer.”

3 (d) DETERMINATION OF WHETHER POSITION OF
 4 UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Sub-
 5 paragraph (B) of section 7430(c)(4) is amended by redes-
 6 ignating clause (iii) as clause (iv) and by inserting after
 7 clause (ii) the following new clause:

8 “(iii) EFFECT OF LOSING ON SUB-
 9 STANTIALLY SIMILAR ISSUES.—In deter-
 10 mining for purposes of clause (i) whether
 11 the position of the United States was sub-
 12 stantially justified, the court shall take
 13 into account whether the United States
 14 has lost in courts of appeal for other cir-
 15 cuits on substantially similar issues.”

16 (e) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to costs incurred (and, in the case
 18 of the amendment made by subsection (c), services per-
 19 formed) more than 180 days after the date of the enact-
 20 ment of this Act.

21 **SEC. 312. CIVIL DAMAGES FOR NEGLIGENCE IN COLLEC-**
 22 **TION ACTIONS.**

23 (a) IN GENERAL.—Section 7433 (relating to civil
 24 damages for certain unauthorized collection actions) is
 25 amended—

1 (1) in subsection (a), by inserting “, or by rea-
 2 son of negligence,” after “recklessly or inten-
 3 tionally”, and

4 (2) in subsection (b)—

5 (A) in the matter preceding paragraph (1),
 6 by inserting “(\$100,000, in the case of neg-
 7 ligence)” after “\$1,000,000”, and

8 (B) in paragraph (1), by inserting “or neg-
 9 ligent” after “reckless or intentional”.

10 (b) REQUIREMENT THAT ADMINISTRATIVE REM-
 11 EDIES BE EXHAUSTED.—Paragraph (1) of section
 12 7433(d) is amended to read as follows:

13 “(1) REQUIREMENT THAT ADMINISTRATIVE
 14 REMEDIES BE EXHAUSTED.—A judgment for dam-
 15 ages shall not be awarded under subsection (b) un-
 16 less the court determines that the plaintiff has ex-
 17 hausted the administrative remedies available to
 18 such plaintiff within the Internal Revenue Service.”

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to actions of officers or employees
 21 of the Internal Revenue Service after the date of the en-
 22 actment of this Act.

1 **SEC. 313. INCREASE IN SIZE OF CASES PERMITTED ON**
 2 **SMALL CASE CALENDAR.**

3 (a) IN GENERAL.—Subsection (a) of section 7463
 4 (relating to disputes involving \$10,000 or less) is amended
 5 by striking “\$10,000” each place it appears and inserting
 6 “\$25,000”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) The section heading for section 7463 is
 9 amended by striking “**\$10,000**” and inserting
 10 “**\$25,000**”.

11 (2) The item relating to section 7463 in the
 12 table of sections for part II of subchapter C of chap-
 13 ter 76 is amended by striking “\$10,000” and insert-
 14 ing “\$25,000”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to proceedings commencing after
 17 the date of the enactment of this Act.

18 **Subtitle C—Relief for Innocent**
 19 **Spouses and for Taxpayers Un-**
 20 **able To Manage Their Financial**
 21 **Affairs Due to Disabilities**

22 **SEC. 321. SPOUSE RELIEVED IN WHOLE OR IN PART OF LI-**
 23 **ABILITY IN CERTAIN CASES.**

24 (a) IN GENERAL.—Subpart B of part II of sub-
 25 chapter A of chapter 61 is amended by inserting after sec-
 26 tion 6014 the following new section:

1 **“SEC. 6015. INNOCENT SPOUSE RELIEF; PETITION TO TAX**
2 **COURT.**

3 “(a) SPOUSE RELIEVED OF LIABILITY IN CERTAIN
4 CASES.—

5 “(1) IN GENERAL.—Under procedures pre-
6 scribed by the Secretary, if—

7 “(A) a joint return has been made under
8 section 6013 for a taxable year,

9 “(B) on such return there is an under-
10 statement of tax attributable to erroneous items
11 of 1 spouse,

12 “(C) the other spouse establishes that in
13 signing the return he or she did not know, and
14 had no reason to know, that there was such un-
15 derstatement,

16 “(D) taking into account all the facts and
17 circumstances, it is inequitable to hold the other
18 spouse liable for the deficiency in tax for such
19 taxable year attributable to such understate-
20 ment, and

21 “(E) the other spouse claims (in such form
22 as the Secretary may prescribe) the benefits of
23 this subsection not later than the date which is
24 2 years after the date of the assessment of such
25 deficiency,

1 then the other spouse shall be relieved of liability for
2 tax (including interest, penalties, and other
3 amounts) for such taxable year to the extent such li-
4 ability is attributable to such understatement.

5 “(2) APPORTIONMENT OF RELIEF.—If a spouse
6 who, but for paragraph (1)(C), would be relieved of
7 liability under paragraph (1), establishes that in
8 signing the return such spouse did not know, and
9 had no reason to know, the extent of such under-
10 statement, then such spouse shall be relieved of li-
11 ability for tax (including interest, penalties, and
12 other amounts) for such taxable year to the extent
13 that such liability is attributable to the portion of
14 such understatement of which such spouse did not
15 know and had no reason to know.

16 “(3) UNDERSTATEMENT.—For purposes of this
17 subsection, the term ‘understatement’ has the mean-
18 ing given to such term by section 6662(d)(2)(A).

19 “(4) SPECIAL RULE FOR COMMUNITY PROP-
20 ERTY INCOME.—For purposes of this subsection, the
21 determination of the spouse to whom items of gross
22 income (other than gross income from property) are
23 attributable shall be made without regard to commu-
24 nity property laws.

1 “(b) PETITION FOR REVIEW BY TAX COURT.—In the
2 case of an individual who has filed a claim under sub-
3 section (a) within the period specified in subsection
4 (a)(1)(E)—

5 “(1) IN GENERAL.—Such individual may peti-
6 tion the Tax Court (and the Tax Court shall have
7 jurisdiction) to determine such claim if such petition
8 is filed during the 90-day period beginning on the
9 earlier of—

10 “(A) the date which is 6 months after the
11 date such claim is filed with the Secretary, or

12 “(B) the date on which the Secretary mails
13 by certified or registered mail a notice to such
14 individual denying such claim.

15 Such 90-day period shall be determined by not
16 counting Saturday, Sunday, or a legal holiday in the
17 District of Columbia as the last day of such period.

18 “(2) RESTRICTIONS APPLICABLE TO COLLEC-
19 TION OF ASSESSMENT.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in section 6851, 6852, or 6861, no
22 levy or proceeding in court for collection of any
23 assessment to which such claim relates shall be
24 made, begun, or prosecuted, until the expiration
25 of the 90-day period described in paragraph

1 (1), nor, if a petition has been filed with the
2 Tax Court, until the decision of the Tax Court
3 has become final. Rules similar to the rules of
4 section 7485 shall apply with respect to the col-
5 lection of such assessment.

6 “(B) AUTHORITY TO ENJOIN COLLECTION
7 ACTIONS.—Notwithstanding the provisions of
8 section 7421(a), the beginning of such proceed-
9 ing or levy during the time the prohibition
10 under subparagraph (A) is in force may be en-
11 joined by a proceeding in the proper court, in-
12 cluding the Tax Court.

13 “(C) JEOPARDY COLLECTION.—If the Sec-
14 retary makes a finding that the collection of the
15 tax is in jeopardy, nothing in this subsection
16 shall prevent the immediate collection of such
17 tax.

18 “(c) SUSPENSION OF RUNNING OF PERIOD OF LIM-
19 TATIONS.—The running of the period of limitations in sec-
20 tion 6502 on the collection of the assessment to which the
21 petition under subsection (b) relates shall be suspended
22 for the period during which the Secretary is prohibited by
23 subsection (b) from collecting by levy or a proceeding in
24 court and for 60 days thereafter.

25 “(d) APPLICABLE RULES.—

1 “(1) ALLOWANCE OF APPLICATION.—Except as
2 provided in paragraph (2), notwithstanding any
3 other law or rule of law (other than section 6512(b),
4 7121, or 7122), credit or refund shall be allowed or
5 made to the extent attributable to the application of
6 this section.

7 “(2) RES JUDICATA.—In the case of any claim
8 under subsection (a), the determination of the Tax
9 Court in any prior proceeding for the same taxable
10 periods in which the decision has become final, shall
11 be conclusive except with respect to the qualification
12 of the spouse for relief which was not an issue in
13 such proceeding. The preceding sentence shall not
14 apply if the Tax Court determines that the spouse
15 participated meaningfully in such prior proceeding.

16 “(3) LIMITATION ON TAX COURT JURISDIC-
17 TION.—If a suit for refund is begun by either spouse
18 pursuant to section 6532, the Tax Court shall lose
19 jurisdiction of the spouse’s action under this section
20 to whatever extent jurisdiction is acquired by the
21 district court or the United States Court of Federal
22 Claims over the taxable years that are the subject of
23 the suit for refund.”

24 (b) SEPARATE FORM FOR APPLYING FOR SPOUSAL
25 RELIEF.—Not later than 180 days after the date of the

1 enactment of this Act, the Secretary of the Treasury shall
 2 develop a separate form with instructions for use by tax-
 3 payers in applying for relief under section 6015(a) of the
 4 Internal Revenue Code of 1986, as added by this section.

5 (c) CONFORMING AMENDMENT.—Section 6013 is
 6 amended by striking subsection (e).

7 (d) CLERICAL AMENDMENT.—The table of sections
 8 for subpart B of part II of subchapter A of chapter 61
 9 is amended by inserting after the item relating to section
 10 6014 the following new item:

“Sec. 6015. Innocent spouse relief; petition to Tax Court.”

11 (e) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to understatements for taxable
 13 years beginning after the date of the enactment of this
 14 Act.

15 **SEC. 322. SUSPENSION OF STATUTE OF LIMITATIONS ON**
 16 **FILING REFUND CLAIMS DURING PERIODS**
 17 **OF DISABILITY.**

18 (a) IN GENERAL.—Section 6511 (relating to limita-
 19 tions on credit or refund) is amended by redesignating
 20 subsection (h) as subsection (i) and by inserting after sub-
 21 section (g) the following new subsection:

22 “(h) RUNNING OF PERIODS OF LIMITATION SUS-
 23 PENDED WHILE TAXPAYER IS UNABLE TO MANAGE FI-
 24 NANCIAL AFFAIRS DUE TO DISABILITY.—

1 “(1) IN GENERAL.—In the case of an individ-
2 ual, the running of the periods specified in sub-
3 sections (a), (b), and (c) shall be suspended during
4 any period of such individual’s life that such individ-
5 ual is financially disabled.

6 “(2) FINANCIALLY DISABLED.—

7 “(A) IN GENERAL.—For purposes of para-
8 graph (1), an individual is financially disabled
9 if such individual is unable to manage his fi-
10 nancial affairs by reason of his medically deter-
11 minable physical or mental impairment which
12 can be expected to result in death or which has
13 lasted or can be expected to last for a continu-
14 ous period of not less than 12 months. An indi-
15 vidual shall not be considered to have such an
16 impairment unless proof of the existence thereof
17 is furnished in such form and manner as the
18 Secretary may require.

19 “(B) EXCEPTION WHERE INDIVIDUAL HAS
20 GUARDIAN, ETC.—An individual shall not be
21 treated as financially disabled during any pe-
22 riod that such individual’s spouse or any other
23 person is authorized to act on behalf of such in-
24 dividual in financial matters.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to claims for credit or refund
3 for periods ending after the date of the enactment of this
4 Act.

5 **Subtitle D—Elimination of Interest**
6 **Rate Differential on Overlap-**
7 **ping Periods of Interest on In-**
8 **come Tax Overpayments and**
9 **Underpayments**

10 **SEC. 331. ELIMINATION OF INTEREST RATE DIFFERENTIAL**
11 **ON OVERLAPPING PERIODS OF INTEREST ON**
12 **INCOME TAX OVERPAYMENTS AND UNDER-**
13 **PAYMENTS.**

14 (a) IN GENERAL.—Section 6621 (relating to deter-
15 mination of rate of interest) is amended by adding at the
16 end the following new subsection:

17 “(d) ELIMINATION OF INTEREST ON OVERLAPPING
18 PERIODS OF INCOME TAX OVERPAYMENTS AND UNDER-
19 PAYMENTS.—To the extent that, for any period, interest
20 is payable under subchapter A and allowable under sub-
21 chapter B on equivalent underpayments and overpayments
22 by the same taxpayer of tax imposed by chapters 1 and
23 2, the net rate of interest under this section on such
24 amounts shall be zero for such period.”

1 (b) CONFORMING AMENDMENT.—Subsection (f) of
 2 section 6601 (relating to satisfaction by credits) is amend-
 3 ed by adding at the end the following “The preceding sen-
 4 tence shall not apply to the extent that section 6621(d)
 5 applies.”

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to interest for calendar quarters
 8 beginning after the date of the enactment of this Act.

9 **Subtitle E—Protections for Tax-**
 10 **payers Subject to Audit or Col-**
 11 **lection Activities**

12 **SEC. 341. PRIVILEGE OF CONFIDENTIALITY EXTENDED TO**
 13 **TAXPAYER’S DEALINGS WITH NON-ATTOR-**
 14 **NEYS AUTHORIZED TO PRACTICE BEFORE IN-**
 15 **TERNAL REVENUE SERVICE.**

16 Section 7602 (relating to examination of books and
 17 witnesses) is amended by adding at the end the following
 18 new subsection:

19 “(d) PRIVILEGE OF CONFIDENTIALITY EXTENDED
 20 TO TAXPAYER’S DEALINGS WITH NON-ATTORNEYS AU-
 21 THORIZED TO PRACTICE BEFORE INTERNAL REVENUE
 22 SERVICE.—

23 “(1) IN GENERAL.—In any noncriminal pro-
 24 ceeding before the Internal Revenue Service, the tax-
 25 payer shall be entitled to the same common law pro-

1 tections of confidentiality with respect to tax advice
 2 furnished by any qualified individual as the taxpayer
 3 would have if such individual were an attorney.

4 “(2) QUALIFIED INDIVIDUAL.—For purposes of
 5 paragraph (1), the term ‘qualified individual’ means
 6 any individual (other than an attorney)—

7 “(A) who is authorized to practice before
 8 the Internal Revenue Service, and

9 “(B) who is providing the tax advice within
 10 the scope permitted under State law for such
 11 individual’s profession.”

12 **SEC. 342. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER**
 13 **ASSISTANCE ORDERS.**

14 Section 7811(a) (relating to taxpayer assistance or-
 15 ders) is amended—

16 (1) by striking “Upon application” and insert-
 17 ing the following:

18 “(1) IN GENERAL.—Upon application”,

19 (2) by moving the text 2 ems to the right, and

20 (3) by adding at the end the following new
 21 paragraphs:

22 “(2) ISSUANCE OF TAXPAYER ASSISTANCE OR-
 23 DERS.—For purposes of determining whether to
 24 issue a taxpayer assistance order, the Taxpayer Ad-

1 vocate shall consider the following factors, among
2 others:

3 “(A) Whether there is an immediate threat
4 of adverse action.

5 “(B) Whether there has been an unreason-
6 able delay in resolving taxpayer account prob-
7 lems.

8 “(C) Whether the taxpayer will have to pay
9 significant costs (including fees for professional
10 representation) if relief is not granted.

11 “(D) Whether the taxpayer will suffer ir-
12 reparable injury, or a long-term adverse impact,
13 if relief is not granted.

14 “(3) STANDARD WHERE ADMINISTRATIVE GUID-
15 ANCE NOT FOLLOWED.—In cases where any Internal
16 Revenue Service employee is not following applicable
17 published administrative guidance (including the In-
18 ternal Revenue Manual), the Taxpayer Advocate
19 shall construe the factors taken into account in de-
20 termining whether to issue a taxpayer assistance
21 order in the manner most favorable to the tax-
22 payer.”

1 **SEC. 343. LIMITATION ON FINANCIAL STATUS AUDIT TECH-**
 2 **NIQUES.**

3 Section 7602 is amended by adding at the end the
 4 following new subsection:

5 “(e) LIMITATION ON EXAMINATION ON UNREPORTED
 6 INCOME.—The Secretary shall not use financial status or
 7 economic reality examination techniques to determine the
 8 existence of unreported income of any taxpayer unless the
 9 Secretary has a reasonable indication that there is a likeli-
 10 hood of such unreported income.”

11 **SEC. 344. LIMITATION ON AUTHORITY TO REQUIRE PRO-**
 12 **DUCTION OF COMPUTER SOURCE CODE.**

13 (a) IN GENERAL.—Section 7602 is amended by add-
 14 ing at the end the following new subsection:

15 “(f) LIMITATION ON AUTHORITY TO REQUIRE PRO-
 16 Duction OF COMPUTER SOURCE CODE.—

17 “(1) IN GENERAL.—No summons may be is-
 18 sued under this title, and the Secretary may not
 19 begin any action under section 7604 to enforce any
 20 summons, to produce or examine any tax-related
 21 computer source code.

22 “(2) EXCEPTION WHERE INFORMATION NOT
 23 OTHERWISE AVAILABLE TO VERIFY CORRECTNESS
 24 OF ITEM ON RETURN.—Paragraph (1) shall not
 25 apply to any portion of a tax-related computer
 26 source code if—

1 “(A) the Secretary is unable to otherwise
2 reasonably ascertain the correctness of any item
3 on a return from—

4 “(i) the taxpayer’s books, papers,
5 records, or other data, or

6 “(ii) the computer software program
7 and the associated data which, when exe-
8 cuted, produces the output to prepare the
9 return for the period involved, and

10 “(B) the Secretary identifies with reason-
11 able specificity such portion as to be used to
12 verify the correctness of such item.

13 The Secretary shall be treated as meeting the re-
14 quirements of subparagraphs (A) and (B) after the
15 90th day after the Secretary makes a formal request
16 to the taxpayer and the owner or developer of the
17 computer software program for the material de-
18 scribed in subparagraph (A)(ii) if such material is
19 not provided before the close of such 90th day.

20 “(3) OTHER EXCEPTIONS.—Paragraph (1) shall
21 not apply to—

22 “(A) any inquiry into any offense con-
23 nected with the administration or enforcement
24 of the internal revenue laws, and

1 “(B) any tax-related computer source code
2 developed by (or primarily for the benefit of)
3 the taxpayer or a related person (within the
4 meaning of section 267 or 707(b)) for internal
5 use by the taxpayer or such person and not for
6 commercial distribution.

7 “(4) TAX-RELATED COMPUTER SOURCE
8 CODE.—For purposes of this subsection, the term
9 ‘tax-related computer source code’ means—

10 “(A) the computer source code for any
11 computer software program for accounting, tax
12 return preparation or compliance, or tax plan-
13 ning, or

14 “(B) design and development materials re-
15 lated to such a software program (including
16 program notes and memoranda).

17 “(5) RIGHT TO CONTEST SUMMONS.—The de-
18 termination of whether the requirements of subpara-
19 graphs (A) and (B) of paragraph (2) are met or
20 whether any exception under paragraph (3) applies
21 may be contested in any proceeding under section
22 7604.

23 “(6) PROTECTION OF TRADE SECRETS AND
24 OTHER CONFIDENTIAL INFORMATION.—In any court
25 proceeding to enforce a summons for any portion of

1 a tax-related computer source code, the court may
 2 issue any order necessary to prevent the disclosure
 3 of trade secrets or other confidential information
 4 with respect to such source code, including providing
 5 that any information be placed under seal to be
 6 opened only as directed by the court.”

7 (b) APPLICATION OF SPECIAL PROCEDURES FOR
 8 THIRD-PARTY SUMMONSES.—Paragraph (3) of section
 9 7609(a) (defining third-party recordkeeper) is amended by
 10 striking “and” at the end of subparagraph (H), by strik-
 11 ing a period at the end of subparagraph (I) and inserting
 12 “; and”, and by adding at the end the following new sub-
 13 paragraph:

14 “(J) any owner or developer of a tax-relat-
 15 ed computer source code (as defined in section
 16 7602(f)(4)).”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to summonses issued more than
 19 90 days after the date of the enactment of this Act.

20 **SEC. 345. PROCEDURES RELATING TO EXTENSIONS OF**
 21 **STATUTE OF LIMITATIONS BY AGREEMENT.**

22 (a) IN GENERAL.—Paragraph (4) of section 6501(c)
 23 (relating to the period for limitations on assessment and
 24 collection) is amended—

1 (1) by striking “Where” and inserting the fol-
 2 lowing:

3 “(A) IN GENERAL.—Where”,

4 (2) by moving the text 2 ems to the right, and

5 (3) by adding at the end the following new sub-
 6 paragraph:

7 “(B) NOTICE TO TAXPAYER OF RIGHT TO
 8 REFUSE OR LIMIT EXTENSION.—The Secretary
 9 shall notify the taxpayer of the taxpayer’s right
 10 to refuse to extend the period of limitations, or
 11 to limit such extension to particular issues, on
 12 each occasion when the taxpayer is requested to
 13 provide such consent.”

14 (b) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to requests to extend the period
 16 of limitations made after the date of the enactment of this
 17 Act.

18 **SEC. 346. OFFERS-IN-COMPROMISE.**

19 (a) ALLOWANCES FOR BASIC LIVING EXPENSES.—
 20 Section 7122 (relating to offers-in-compromise) is amend-
 21 ed by adding at the end the following new subsection:

22 “(c) ALLOWANCES FOR BASIC LIVING EXPENSES.—
 23 The Secretary shall develop and publish schedules of na-
 24 tional and local allowances designed to provide that tax-

1 payers entering into a compromise have an adequate
 2 means to provide for basic living expenses.”

3 (b) PREPARATION OF STATEMENT RELATING TO OF-
 4 FERS-IN-COMPROMISE.—The Secretary of the Treasury
 5 shall prepare a statement which sets forth in simple, non-
 6 technical terms the rights of a taxpayer and the obliga-
 7 tions of the Internal Revenue Service relating to offers-
 8 in-compromise. Such statement shall—

9 (1) advise taxpayers who have entered into a
 10 compromise agreement of the advantages of prompt-
 11 ly notifying the Internal Revenue Service of any
 12 change of address or marital status, and

13 (2) provide notice to taxpayers that in the case
 14 of a compromise agreement terminated due to the
 15 actions of 1 spouse or former spouse, the Internal
 16 Revenue Service will, upon application, reinstate
 17 such agreement with the spouse or former spouse
 18 who remains in compliance with such agreement.

19 **SEC. 347. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES**
 20 **FOR FILING TAX COURT PETITION.**

21 (a) IN GENERAL.—The Secretary of the Treasury or
 22 the Secretary’s delegate shall include on each notice of de-
 23 ficiency under section 6212 of the Internal Revenue Code
 24 of 1986 the date determined by such Secretary (or dele-

1 gate) as the last day on which the taxpayer may file a
 2 petition with the Tax Court.

3 (b) LATER FILING DEADLINES SPECIFIED ON NO-
 4 TICE OF DEFICIENCY TO BE BINDING.—Subsection (a)
 5 of section 6213 (relating to restrictions applicable to defi-
 6 ciencies; petition to Tax Court) is amended by adding at
 7 the end the following new sentence: “Any petition filed
 8 with the Tax Court on or before the last date specified
 9 for filing such petition by the Secretary in the notice of
 10 deficiency shall be treated as timely filed.”

11 (c) EFFECTIVE DATE.—Subsection (a) and the
 12 amendment made by subsection (b) shall apply to notices
 13 mailed after December 31, 1998.

14 **SEC. 348. REFUND OR CREDIT OF OVERPAYMENTS BEFORE**
 15 **FINAL DETERMINATION.**

16 (a) TAX COURT PROCEEDINGS.—Subsection (a) of
 17 section 6213 is amended—

18 (1) by striking “, including the Tax Court.”
 19 and inserting “, including the Tax Court, and a re-
 20 fund may be ordered by such court of any amount
 21 collected within the period during which the Sec-
 22 retary is prohibited from collecting by levy or
 23 through a proceeding in court under the provisions
 24 of this subsection.”, and

1 (2) by striking “to enjoin any action or pro-
2 ceeding” and inserting “to enjoin any action or pro-
3 ceeding or order any refund”.

4 (b) OTHER PROCEEDINGS.—Subsection (a) of section
5 6512 is amended by striking the period at the end of para-
6 graph (4) and inserting “, and”, and by inserting after
7 paragraph (4) the following new paragraphs:

8 “(5) As to any amount collected within the pe-
9 riod during which the Secretary is prohibited from
10 making the assessment or from collecting by levy or
11 through a proceeding in court under the provisions
12 of section 6213(a), and

13 “(6) As to overpayments the Secretary is au-
14 thorized to refund or credit pending appeal as pro-
15 vided in subsection (b).”

16 (c) REFUND OR CREDIT PENDING APPEAL.—Para-
17 graph (1) of section 6512(b) is amended by adding at the
18 end the following new sentence: “If a notice of appeal in
19 respect of the decision of the Tax Court is filed under sec-
20 tion 7483, the Secretary is authorized to refund or credit
21 the overpayment determined by the Tax Court to the ex-
22 tent the overpayment is not contested on appeal.”

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **SEC. 349. THREAT OF AUDIT PROHIBITED TO COERCE TIP**
 2 **REPORTING ALTERNATIVE COMMITMENT**
 3 **AGREEMENTS.**

4 The Secretary of the Treasury or the Secretary's del-
 5 egate shall instruct employees of the Internal Revenue
 6 Service that they may not threaten to audit any taxpayer
 7 in an attempt to coerce the taxpayer into entering into
 8 a Tip Reporting Alternative Commitment Agreement.

9 **Subtitle F—Disclosures to**
 10 **Taxpayers**

11 **SEC. 351. EXPLANATION OF JOINT AND SEVERAL LIABIL-**
 12 **ITY.**

13 The Secretary of the Treasury or the Secretary's del-
 14 egate shall, as soon as practicable, but not later than 180
 15 days after the date of the enactment of this Act, establish
 16 procedures to clearly alert married taxpayers of their joint
 17 and several liabilities on all appropriate publications and
 18 instructions.

19 **SEC. 352. EXPLANATION OF TAXPAYERS' RIGHTS IN INTER-**
 20 **VIEWS WITH THE INTERNAL REVENUE SERV-**
 21 **ICE.**

22 The Secretary of the Treasury or the Secretary's del-
 23 egate shall, as soon as practicable, but not later than 180
 24 days after the date of the enactment of this Act, revise
 25 the statement required by section 6227 of the Omnibus
 26 Taxpayer Bill of Rights (Internal Revenue Service Publi-

1 cation No. 1) to more clearly inform taxpayers of their
2 rights—

3 (1) to be represented at interviews with the In-
4 ternal Revenue Service by any person authorized to
5 practice before the Internal Revenue Service, and

6 (2) to suspend an interview pursuant to section
7 7521(b)(2) of the Internal Revenue Code of 1986.

8 **SEC. 353. DISCLOSURE OF CRITERIA FOR EXAMINATION SE-**
9 **LECTION.**

10 (a) IN GENERAL.—The Secretary of the Treasury or
11 the Secretary's delegate shall, as soon as practicable, but
12 not later than 180 days after the date of the enactment
13 of this Act, incorporate into the statement required by sec-
14 tion 6227 of the Omnibus Taxpayer Bill of Rights (Inter-
15 nal Revenue Service Publication No. 1) a statement which
16 sets forth in simple and nontechnical terms the criteria
17 and procedures for selecting taxpayers for examination.
18 Such statement shall not include any information the dis-
19 closure of which would be detrimental to law enforcement,
20 but shall specify the general procedures used by the Inter-
21 nal Revenue Service, including the extent to which tax-
22 payers are selected for examination on the basis of infor-
23 mation available in the media or on the basis of informa-
24 tion provided to the Internal Revenue Service by inform-
25 ants.

1 (b) TRANSMISSION TO COMMITTEES OF CON-
 2 GRESS.—The Secretary shall transmit drafts of the state-
 3 ment required under subsection (a) (or proposed revisions
 4 to any such statement) to the Committee on Ways and
 5 Means of the House of Representatives, the Committee on
 6 Finance of the Senate, and the Joint Committee on Tax-
 7 ation on the same day.

8 **SEC. 354. DISCLOSURE OF FIELD SERVICE ADVICE MEMO-**
 9 **RANDA.**

10 (a) IN GENERAL.—Section 6110 (relating to public
 11 inspection of written determinations) is amended by redes-
 12 ignating subsections (i), (j), (k), and (l) as subsections (j),
 13 (k), (l), and (m), respectively, and by inserting after sub-
 14 section (h) the following new subsection:

15 “(i) DISCLOSURE OF FIELD SERVICE ADVICE MEMO-
 16 RANDA.—

17 “(1) IN GENERAL.—For purposes of this sec-
 18 tion, and except as otherwise provided in this sub-
 19 section, a field service advice memorandum shall be
 20 treated as a written determination.

21 “(2) EXEMPTIONS FROM DISCLOSURE.—Before
 22 making a field service advice memorandum open to
 23 public inspection pursuant to paragraph (1), the
 24 Secretary, in addition to matters deleted under sub-
 25 section (c), shall also delete—

1 “(A) information regarding the scope, di-
2 rection, or emphasis of audit or collection activ-
3 ity, including case tactics, strategies, alternative
4 theories, and assessments of litigating hazards,

5 “(B) information the disclosure of which
6 could reasonably be expected to risk circumven-
7 tion of law, and

8 “(C) information the disclosure of which
9 could reasonably be expected to reveal the iden-
10 tity of a confidential source.

11 “(3) NOTICE OF INTENTION TO DISCLOSE.—

12 For purposes of this subsection, the notice required
13 by subsection (f)(1) shall be mailed within 180 days
14 after the date of the issuance of a field service ad-
15 vice memorandum, together with a copy of such
16 memorandum in which the Secretary has deleted the
17 information described in subsection (c), paragraph
18 (2) of this subsection, and the names, addresses, and
19 other identifying details of taxpayers other than the
20 person to whom the memorandum pertains. The pre-
21 ceding sentence shall not apply to the extent that
22 such information was provided by such person.

23 “(4) SPECIAL RULES FOR CERTAIN FIELD
24 SERVICE ADVICE MEMORANDA.—Notwithstanding
25 subsection (g)(5), in addition to matters not re-

1 quired to be made available to the public under such
2 subsection, the Secretary shall not be required to
3 make available to the public any field service advice
4 memorandum issued in connection with—

5 “(A) cases docketed in any Federal or
6 State court, or

7 “(B) any criminal investigation.

8 “(5) NO EVIDENTIARY VALUE.—A field service
9 advice memorandum shall not be considered by any
10 court as evidence of an Internal Revenue Service po-
11 sition or as an admission against interest.

12 “(6) CERTAIN RULES INAPPLICABLE.—Sub-
13 sections (d) and (e) shall not apply to any field serv-
14 ice advice memorandum.

15 “(7) FIELD SERVICE ADVICE MEMORANDUM DE-
16 FINED.—The term ‘field service advice memoran-
17 dum’ means case-specific written advice issued by
18 the National Office of Chief Counsel to field person-
19 nel of either the Internal Revenue Service or the Of-
20 fice of Chief Counsel with respect to the determina-
21 tion of the existence, or possible existence, of liability
22 (or the amount thereof) of any person under this
23 title for any tax, penalty, interest, fine, forfeiture, or
24 other imposition, or offense.”

1 (b) LEGAL OR FACTUAL ANALYSES ONLY
2 DISCLOSABLE UNDER SECTION 6110.—Paragraph (2) of
3 section 6103(b) is amended—

4 (1) in subparagraph (A), by inserting “or anal-
5 yses of law or fact” after “data”, and

6 (2) in subparagraph (B), by striking “section
7 6110(b)” and inserting “subsections (b) and (i) of
8 section 6110”.

9 (c) EFFECTIVE DATES.—

10 (1) DISCLOSURE OF FIELD SERVICE MEMO-
11 RANDA.—

12 (A) IN GENERAL.—The amendments made
13 by subsection (a) shall apply to any field service
14 advice memorandum issued more than 90 days
15 after the date of the enactment of this Act.

16 (B) PRIOR FIELD SERVICE ADVICE MEMO-
17 RANDA.—The amendments made by subsection
18 (a) also shall apply to any field service advice
19 memorandum issued after 1991 and before the
20 91st day after the date of the enactment of this
21 Act by the offices of the associate chief counsels
22 for domestic, employee benefits and exempt or-
23 ganizations, and international, as follows:

24 (i) Such amendments shall take effect
25 on January 1, 1999 (or, if later, the date

1 which is 1 year after the date of the enact-
2 ment of this Act) in the case of memo-
3 randa issued during 1992 or 1993.

4 (ii) Such amendments shall take effect
5 on January 1, 2000 (or, if later, the date
6 which is 2 years after the date of the en-
7 actment of this Act) in the case of memo-
8 randa issued during 1994 or 1995.

9 (iii) Such amendments shall take ef-
10 fect on January 1, 2001 (or, if later, the
11 date which is 3 years after the date of the
12 enactment of this Act) in the case of
13 memoranda issued after 1995 and before
14 such 91st day.

15 The Secretary of the Treasury or the Sec-
16 retary's delegate may provide that clauses (i),
17 (ii), and (iii) shall be applied by substituting ef-
18 fective dates which are earlier than the effective
19 dates specified in such clauses.

20 (2) DISCLOSURE OF LEGAL OR FACTUAL ANAL-
21 YSES.—The amendments made by subsection (b)
22 shall take effect on the date of the enactment of this
23 Act.

1 **SEC. 355. EXPLANATIONS OF APPEALS AND COLLECTION**
 2 **PROCESS.**

3 The Secretary of the Treasury or the Secretary's del-
 4 egate shall, as soon as practicable but not later than 180
 5 days after the date of the enactment of this Act, include
 6 with any 1st letter of proposed deficiency which allows the
 7 taxpayer an opportunity for administrative review in the
 8 Internal Revenue Service Office of Appeals an explanation
 9 of the appeals process and the collection process with re-
 10 spect to such proposed deficiency.

11 **Subtitle G—Low Income Taxpayer**
 12 **Clinics**

13 **SEC. 361. LOW INCOME TAXPAYER CLINICS.**

14 (a) IN GENERAL.—Chapter 77 (relating to mis-
 15 cellaneous provisions) is amended by adding at the end
 16 the following new section:

17 **“SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

18 “(a) IN GENERAL.—The Secretary shall make grants
 19 to provide matching funds for the development, expansion,
 20 or continuation of qualified low income taxpayer clinics.

21 “(b) DEFINITIONS.—For purposes of this section—

22 “(1) QUALIFIED LOW INCOME TAXPAYER CLIN-
 23 IC.—

24 “(A) IN GENERAL.—The term ‘qualified
 25 low income taxpayer clinic’ means a clinic
 26 that—

1 “(i) does not charge more than a
 2 nominal fee for its services (except for re-
 3 imbursement of actual costs incurred), and

4 “(ii)(I) represents low income tax-
 5 payers in controversies with the Internal
 6 Revenue Service, or

7 “(II) operates programs to inform in-
 8 dividuals for whom English is a second
 9 language about their rights and respon-
 10 sibilities under this title.

11 “(B) REPRESENTATION OF LOW INCOME
 12 TAXPAYERS.—A clinic meets the requirements
 13 of subparagraph (A)(ii)(I) if—

14 “(i) at least 90 percent of the tax-
 15 payers represented by the clinic have in-
 16 comes which do not exceed 250 percent of
 17 the poverty level, as determined in accord-
 18 ance with criteria established by the Direc-
 19 tor of the Office of Management and
 20 Budget, and

21 “(ii) the amount in controversy for
 22 any taxable year generally does not exceed
 23 the amount specified in section 7463.

24 “(2) CLINIC.—The term ‘clinic’ includes—

1 “(A) a clinical program at an accredited
2 law school in which students represent low in-
3 come taxpayers in controversies arising under
4 this title, and

5 “(B) an organization described in section
6 501(c) and exempt from tax under section
7 501(a) which satisfies the requirements of para-
8 graph (1) through representation of taxpayers
9 or referral of taxpayers to qualified representa-
10 tives.

11 “(3) QUALIFIED REPRESENTATIVE.—The term
12 ‘qualified representative’ means any individual
13 (whether or not an attorney) who is authorized to
14 practice before the Internal Revenue Service or the
15 applicable court.

16 “(c) SPECIAL RULES AND LIMITATIONS.—

17 “(1) AGGREGATE LIMITATION.—Unless other-
18 wise provided by specific appropriation, the Sec-
19 retary shall not allocate more than \$3,000,000 per
20 year (exclusive of costs of administering the pro-
21 gram) to grants under this section.

22 “(2) LIMITATION ON INDIVIDUAL GRANTS.—A
23 grant under this section shall not exceed \$100,000
24 per year.

1 “(3) MULTI-YEAR GRANTS.—Upon application
2 of a qualified low income taxpayer clinic, the Sec-
3 retary is authorized to award a multi-year grant not
4 to exceed 3 years.

5 “(4) CRITERIA FOR AWARDS.—In determining
6 whether to make a grant under this section, the Sec-
7 retary shall consider—

8 “(A) the numbers of taxpayers who will be
9 served by the clinic, including the number of
10 taxpayers in the geographical area for whom
11 English is a second language,

12 “(B) the existence of other low income tax-
13 payer clinics serving the same population,

14 “(C) the quality of the program offered by
15 the low income taxpayer clinic, including the
16 qualifications of its administrators and qualified
17 representatives, and its track record, if any, in
18 providing service to low income taxpayers, and

19 “(D) alternative funding sources available
20 to the clinic, including amounts received from
21 other grants and contributions, and the endow-
22 ment and resources of the institution sponsor-
23 ing the clinic.

24 “(5) REQUIREMENT OF MATCHING FUNDS.—A
25 low income taxpayer clinic must provide matching

1 funds on a dollar for dollar basis for all grants pro-
 2 vided under this section. Matching funds may in-
 3 clude—

4 “(A) the salary (including fringe benefits)
 5 of individuals performing services for the clinic,
 6 and

7 “(B) the cost of equipment used in the
 8 clinic.

9 Indirect expenses, including general overhead of the
 10 institution sponsoring the clinic, shall not be counted
 11 as matching funds.”

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 for chapter 77 is amended by adding at the end the follow-
 14 ing new section:

“Sec. 7525. Low income taxpayer clinics.”

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect on the date of the enactment
 17 of this Act.

18 **Subtitle H—Other Matters**

19 **SEC. 371. ACTIONS FOR REFUND WITH RESPECT TO CER-** 20 **TAIN ESTATES WHICH HAVE ELECTED THE** 21 **INSTALLMENT METHOD OF PAYMENT.**

22 (a) IN GENERAL.—Section 7422 is amended by re-
 23 designating subsection (j) as subsection (k) and by insert-
 24 ing after subsection (i) the following new subsection:

1 “(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO
2 ESTATES FOR WHICH AN ELECTION UNDER SECTION
3 6166 IS MADE.—

4 “(1) IN GENERAL.—The district courts of the
5 United States and the United States Court of Fed-
6 eral Claims shall have jurisdiction over any action
7 brought by the representative of an estate to which
8 this subsection applies to determine the correct
9 amount of the estate tax liability of such estate (or
10 for any refund with respect thereto) even if the full
11 amount of such liability has not been paid.

12 “(2) ESTATES TO WHICH SUBSECTION AP-
13 PLIES.—This subsection shall apply to any estate if,
14 as of the date the action is filed—

15 “(A) an election under section 6166 is in
16 effect with respect to such estate,

17 “(B) no portion of the installments payable
18 under such section have been accelerated, and

19 “(C) all installments the due date for
20 which is on or before the date the action is filed
21 have been paid.

22 “(3) PROHIBITION ON COLLECTION OF DIS-
23 ALLOWED LIABILITY.—If the court redetermines
24 under paragraph (1) the estate tax liability of an es-
25 tate, no part of such liability which is disallowed by

1 a decision of such court which has become final may
2 be collected by the Secretary, and amounts paid in
3 excess of the installments determined by the court as
4 currently due and payable shall be refunded.”

5 (b) EXTENSION OF TIME TO FILE REFUND SUIT.—
6 Section 7479 (relating to declaratory judgments relating
7 to eligibility of estate with respect to installment payments
8 under section 6166) is amended by adding at the end the
9 following new subsection:

10 “(c) EXTENSION OF TIME TO FILE REFUND SUIT.—
11 The 2-year period in section 6532(a)(1) for filing suit for
12 refund after disallowance of a claim shall be suspended
13 during the 90-day period after the mailing of the notice
14 referred to in subsection (b)(3) and, if a pleading has been
15 filed with the Tax Court under this section, until the deci-
16 sion of the Tax Court has become final.”

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to any claim for refund filed after
19 the date of the enactment of this Act.

20 **SEC. 372. CATALOGING COMPLAINTS.**

21 In collecting data for the report required under sec-
22 tion 1211 of Taxpayer Bill of Rights 2 (Public Law 104–
23 168), the Secretary of the Treasury or the Secretary’s del-
24 egate shall maintain records of taxpayer complaints of

1 misconduct by Internal Revenue Service employees on an
2 individual employee basis.

3 **SEC. 373. ARCHIVE OF RECORDS OF INTERNAL REVENUE**
4 **SERVICE.**

5 (a) IN GENERAL.—Subsection (l) of section 6103 (re-
6 lating to confidentiality and disclosure of returns and re-
7 turn information) is amended by adding at the end the
8 following new paragraph:

9 “(17) DISCLOSURE TO NATIONAL ARCHIVES
10 AND RECORDS ADMINISTRATION.—The Secretary
11 shall, upon written request from the Archivist of the
12 United States, disclose or authorize the disclosure of
13 returns and return information to officers and em-
14 ployees of the National Archives and Records Ad-
15 ministration for purposes of, and only to the extent
16 necessary in, the scheduling of records for destruc-
17 tion or retention. No such officer or employee shall,
18 except to the extent authorized by subsections (f),
19 (i)(7), or (p), disclose any return or return informa-
20 tion disclosed under the preceding sentence to any
21 person other than to the Secretary, or to another of-
22 ficer of employee or the National Archives and
23 Records Administration whose official duties require
24 such disclosure for purposes of such scheduling.”

1 (b) CONFORMING AMENDMENTS.—Section 6103(p) is
 2 amended—

3 (1) in paragraph (3)(A), by striking “or (16)”
 4 and inserting “(16), or (17)”,

5 (2) in paragraph (4), by striking “or (14)” and
 6 inserting “, (14), or (17)” in the matter preceding
 7 subparagraph (A), and

8 (3) in paragraph (4)(F)(ii), by striking ““or
 9 (14)” and inserting “, (14), or (17)”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to requests made by the Archivist
 12 of the United States after the date of the enactment of
 13 this Act.

14 **SEC. 374. PAYMENT OF TAXES.**

15 The Secretary of the Treasury or the Secretary’s del-
 16 egate shall establish such rules, regulations, and proce-
 17 dures as are necessary to allow payment of taxes by check
 18 or money order made payable to the United States Treas-
 19 ury.

20 **SEC. 375. CLARIFICATION OF AUTHORITY OF SECRETARY**
 21 **RELATING TO THE MAKING OF ELECTIONS.**

22 Subsection (d) of section 7805 is amended by striking
 23 “by regulations or forms”.

Subtitle I—Studies

2 SEC. 381. PENALTY ADMINISTRATION.

3 The Joint Committee on Taxation shall conduct a
4 study—

5 (1) reviewing the administration and implemen-
6 tation by the Internal Revenue Service of the pen-
7 alty reform provisions of the Omnibus Budget Rec-
8 onciliation Act of 1989, and

9 (2) making any legislative and administrative
10 recommendations it deems appropriate to simplify
11 penalty administration and reduce taxpayer burden.
12 Such study shall be submitted to the Committee on Ways
13 and Means of the House of Representatives and the Com-
14 mittee on Finance of the Senate not later than 9 months
15 after the date of enactment of this Act.

16 SEC. 382. CONFIDENTIALITY OF TAX RETURN INFORMA- 17 TION.

18 The Joint Committee on Taxation shall conduct a
19 study of the scope and use of provisions regarding tax-
20 payer confidentiality, and shall report the findings of such
21 study, together with such recommendations as it deems
22 appropriate, to the Congress not later than one year after
23 the date of the enactment of this Act. Such study shall
24 examine the present protections for taxpayer privacy, the
25 need for third parties to use tax return information, and

1 the ability to achieve greater levels of voluntary compli-
 2 ance by allowing the public to know who is legally required
 3 to file tax returns, but does not file tax returns.

4 **TITLE IV—CONGRESSIONAL AC-**
 5 **COUNTABILITY FOR THE IN-**
 6 **TERNAL REVENUE SERVICE**

7 **Subtitle A—Oversight**

8 **SEC. 401. EXPANSION OF DUTIES OF THE JOINT COMMIT-**
 9 **TEE ON TAXATION.**

10 (a) IN GENERAL.—Section 8021 (relating to the pow-
 11 ers of the Joint Committee on Taxation) is amended by
 12 adding at the end the following new subsections:

13 “(e) INVESTIGATIONS.—The Joint Committee shall
 14 review all requests (other than requests by the chairman
 15 or ranking member of a Committee or Subcommittee) for
 16 investigations of the Internal Revenue Service by the Gen-
 17 eral Accounting Office, and approve such requests when
 18 appropriate, with a view towards eliminating overlapping
 19 investigations, ensuring that the General Accounting Of-
 20 fice has the capacity to handle the investigation, and en-
 21 suring that investigations focus on areas of primary im-
 22 portance to tax administration.

23 “(f) RELATING TO JOINT HEARINGS.—

24 “(1) IN GENERAL.—The Chief of Staff, and
 25 such other staff as are appointed pursuant to section

1 8004, shall provide such assistance as is required for
2 joint hearings described in paragraph (2).

3 “(2) JOINT HEARINGS.—On or before April 1
4 of each calendar year after 1997, there shall be a
5 joint hearing of two members of the majority and
6 one member of the minority from each of the Com-
7 mittees on Finance, Appropriations, and Govern-
8 ment Affairs of the Senate, and the Committees on
9 Ways and Means, Appropriations, and Government
10 Reform and Oversight of the House of Representa-
11 tives, to review the strategic plans and budget for
12 the Internal Revenue Service. After the conclusion of
13 the annual filing season, there shall be a second an-
14 nual joint hearing to review the other matters out-
15 lined in section 8022(3)(C).”

16 (b) EFFECTIVE DATES.—

17 (1) Subsection (e) of section 8021 of the Inter-
18 nal Revenue Code of 1986, as added by subsection
19 (a) of this section, shall apply to requests made after
20 the date of enactment of this Act.

21 (2) Subsection (f) of section 8021 of the Inter-
22 nal Revenue Code of 1986, as added by subsection
23 (a) of this section, shall take effect on the date of
24 the enactment of this Act.

1 **SEC. 402. COORDINATED OVERSIGHT REPORTS.**

2 (a) IN GENERAL.—Paragraph (3) of section 8022
3 (relating to the duties of the Joint Committee on Tax-
4 ation) is amended to read as follows:

5 “(3) REPORTS.—

6 “(A) To report, from time to time, to the
7 Committee on Finance and the Committee on
8 Ways and Means, and, in its discretion, to the
9 Senate or House of Representatives, or both,
10 the results of its investigations, together with
11 such recommendations as it may deem advis-
12 able.

13 “(B) To report, annually, to the Commit-
14 tee on Finance and the Committee on Ways
15 and Means on the overall state of the Federal
16 tax system, together with recommendations
17 with respect to possible simplification proposals
18 and other matters relating to the administra-
19 tion of the Federal tax system as it may deem
20 advisable.

21 “(C) To report, annually, to the Commit-
22 tees on Finance, Appropriations, and Govern-
23 ment Affairs of the Senate, and to the Commit-
24 tees on Ways and Means, Appropriations, and
25 Government Reform and Oversight of the
26 House of Representatives, with respect to—

1 “(i) strategic and business plans for
2 the Internal Revenue Service;

3 “(ii) progress of the Internal Revenue
4 Service in meeting its objectives;

5 “(iii) the budget for the Internal Rev-
6 enue Service and whether it supports its
7 objectives;

8 “(iv) progress of the Internal Revenue
9 Service in improving taxpayer service and
10 compliance;

11 “(v) progress of the Internal Revenue
12 Service on technology modernization; and

13 “(vi) the annual filing season.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on the date of the enactment
16 of this Act.

17 **Subtitle B—Budget**

18 **SEC. 411. FUNDING FOR CENTURY DATE CHANGE.**

19 It is the sense of Congress that the Internal Revenue
20 Service efforts to resolve the century date change comput-
21 ing problems should be funded fully to provide for certain
22 resolution of such problems.

23 **SEC. 412. FINANCIAL MANAGEMENT ADVISORY GROUP.**

24 The Commissioner shall convene a financial manage-
25 ment advisory group consisting of individuals with exper-

1 tise in governmental accounting and auditing from both
 2 the private sector and the Government to advise the Com-
 3 missioner on financial management issues, including—

4 (1) the continued partnership between the In-
 5 ternal Revenue Service and the General Accounting
 6 Office;

7 (2) the financial accounting aspects of the In-
 8 ternal Revenue Service’s system modernization;

9 (3) the necessity and utility of year-round au-
 10 diting; and

11 (4) the Commissioner’s plans for improving its
 12 financial management system.

13 **Subtitle C—Tax Law Complexity**

14 **SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.**

15 It is the sense of Congress that the Internal Revenue
 16 Service should provide the Congress with an independent
 17 view of tax administration, and that during the legislative
 18 process, the tax writing committees of the Congress should
 19 hear from front-line technical experts at the Internal Rev-
 20 enue Service with respect to the administrability of pend-
 21 ing amendments to the Internal Revenue Code of 1986.

22 **SEC. 422. TAX COMPLEXITY ANALYSIS.**

23 (a) IN GENERAL.—Chapter 92 (relating to powers
 24 and duties of the Joint Committee on Taxation) is amend-
 25 ed by adding at the end the following new section:

1 **“SEC. 8024. TAX COMPLEXITY ANALYSIS.**

2 “(a) IN GENERAL.—If—

3 “(1) legislation is reported by the Committee on
4 Finance of the Senate, the Committee on Ways and
5 Means of the House of Representatives, or any com-
6 mittee of conference, and

7 “(2) such legislation includes any provision
8 amending the Internal Revenue Code of 1986,
9 the report or statement accompanying such legislation
10 shall contain a Tax Complexity Analysis prepared by the
11 staff of the Joint Committee on Taxation.

12 “(b) CONTENT OF COMPLEXITY ANALYSIS.—Each
13 Tax Complexity Analysis shall identify the provisions, if
14 any, adding significant complexity or providing significant
15 simplification, as determined by the staff of the Joint
16 Committee on Taxation, and shall include the basis for
17 such determination.

18 “(c) LEGISLATION SUBJECT TO POINT OF ORDER.—
19 It shall not be in order in the Senate or the House of
20 Representatives to consider any legislation described in
21 subsection (a) required to be accompanied by a Tax Com-
22 plexity Analysis that does not contain a Tax Complexity
23 Analysis.

24 “(d) RESPONSIBILITIES OF THE COMMISSIONER.—
25 The Commissioner shall provide the Joint Committee on

1 Taxation with such information as is necessary to prepare
 2 Tax Complexity Analyses.”

3 (b) CLERICAL AMENDMENT.—The table of sections
 4 for chapter 92 is amended by adding at the end the follow-
 5 ing new item:

“Sec. 8024. Tax complexity analysis.”

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to legislation considered on or after
 8 January 1, 1998.

9 **TITLE V—CLARIFICATION OF DE-** 10 **DUCTION FOR DEFERRED** 11 **COMPENSATION**

12 **SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED** 13 **COMPENSATION.**

14 (a) IN GENERAL.—Subsection (a) of section 404 is
 15 amended by adding at the end the following new para-
 16 graph:

17 “(11) DETERMINATIONS RELATING TO DE-
 18 FERRED COMPENSATION.—

19 “(A) IN GENERAL.—For purposes of deter-
 20 mining—

21 “(i) whether compensation of an indi-
 22 vidual is deferred compensation, and

23 “(ii) when deferred compensation is
 24 paid,

1 no amount shall be treated as received by the
 2 individual, or paid, until it is actually received
 3 by the individual.

4 “(B) EXCEPTION.—Subparagraph (A)
 5 shall not apply to severance pay.”

6 (b) SICK LEAVE PAY TREATED LIKE VACATION
 7 PAY.—Paragraph (5) of section 404(a) is amended by in-
 8 serting “or sick leave pay” after “vacation pay”.

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by
 11 this section shall apply to taxable years ending after
 12 October 8, 1997.

13 (2) CHANGE IN METHOD OF ACCOUNTING.—In
 14 the case of any taxpayer required by this section to
 15 change its method of accounting for its first taxable
 16 year ending after October 8, 1997—

17 (A) such change shall be treated as initi-
 18 ated by the taxpayer,

19 (B) such change shall be treated as made
 20 with the consent of the Secretary of the Treas-
 21 ury, and

22 (C) the net amount of the adjustments re-
 23 quired to be taken into account by the taxpayer
 24 under section 481 of the Internal Revenue Code

1 of 1986 shall be taken into account in such first
2 taxable year.

